

UNITED STATES DISTRICT COURT FOR  
THE DISTRICT OF MASSACHUSETTS

LAUREN VARALLO,  
 Plaintiff,  
 v.  
 TOWN OF NANTUCKET - POLICE  
 DEPARTMENT and JAMES SAMSON,  
 Defendants.

CIVIL ACTION  
 NO: 05-11547-RWZ

**TABLE OF EXHIBITS**  
**TO THE PLAINTIFF'S L.R. 56.1 CONCISE STATEMENT OF**  
**DISPUTED FACTS IN OPPOSITION TO THE DEFENDANT**  
**TOWN'S MOTION FOR PARTIAL SUMMARY JUDGMENT**

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Respectfully submitted,  
**PLAINTIFF LAUREN VARALLO,**  
 By her attorneys,

*/s/ Bradley M. Henry*

---

Bradley M. Henry, BBO No. 559501  
 Suleyken D. Walker, BBO No. 654933  
 MEEHAN, BOYLE, BLACK & BOGDANOW, P.C.  
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 Boston, MA 02108-1922  
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**CERTIFICATE OF SERVICE**

I, Bradley M. Henry, certify that on May 16, 2007, I served the foregoing Table of Exhibits for Plaintiff's L.R. 56.1 Concise Statement of Disputed Facts in Opposition to the Defendant Town of Nantucket's Motion for Partial Summary Judgment by electronic filing and by mailing an exact copy thereof, postage prepaid to all parties of record: Douglas I. Louison, Esq., Merrick, Louison & Costello, LLP, 67 Batterymarch St., Boston, MA 02110 and Philip Slotnick, Esq., Shocket & Dockser, LLP, 6 Huron Dr., P.O. Box 2219, Natick, MA 01760.

*/s/ Bradley M. Henry*

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Bradley M. Henry

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EXHIBIT 1

NOTE: CONFIDENTIAL MEDICAL INFORMATION IS CONTAINED IN THIS DOCUMENT

UNITED STATES DISTRICT COURT FOR  
THE DISTRICT OF MASSACHUSETTS

LAUREN VARALLO,

Plaintiff,

v.

TOWN OF NANTUCKET - POLICE  
DEPARTMENT and JAMES SAMSON,

Defendants.

CIVIL ACTION  
NO: 05-11547-RWZ

**PLAINTIFF'S ANSWERS TO THE  
DEFENDANT TOWN OF NANTUCKET'S  
FIRST SET OF INTERROGATORIES**

**INTERROGATORY NO. 1**

State your full name, address, date of birth and social security number.

**ANSWER NO. 1**

Name: Lauren Varallo, Current Address:

REDACTIONS BY COUNSEL

**INTERROGATORY NO. 2**

If you have been convicted of a felony and/or a misdemeanor, describe the offense or offenses and when, if applicable, where committed, and under what name you were convicted, and when and in what city, county and state.

**ANSWER NO. 2**

Not applicable.

**INTERROGATORY NO. 3**

Please identify in complete detail how the alleged incident that serves as the basis of your complaint occurred, stating what you saw and did prior to, during, and after each incident and what happened to you in the order in which the events took place including what you were doing immediately prior and up to the receipt of the injuries alleged in your complaint.

**ANSWER NO. 3**

On the afternoon of July 21, 2002, Lauren Varallo attended a beach party with friends. After returning home to change, she and her mother argued about whether she would be allowed to go out again that evening because, against her parents wishes, Lauren had been drinking with her friends. Frustrated with her mother, Lauren locked herself in the bathroom and cut herself with a

**NOTE: CONFIDENTIAL MEDICAL INFORMATION IS CONTAINED IN THIS DOCUMENT**

safety razor causing her left wrist to bleed superficially. Lauren's sister found her and alerted her parents who dialed 911. The Nantucket Police department responded together with two Emergency Medical Technicians who took Lauren in an ambulance to Nantucket Cottage Hospital. Lauren's parents followed separately.

At the emergency room, Lauren's wrist was bandaged. Doctors told her parents that Lauren was not suicidal but that, as a precaution, she should stay at the hospital overnight in a special care unit. There was some discussion about whether Mrs. Varallo could stay with her daughter overnight, but she was told that a protective detail would be assigned to watch over Lauren for the night and that she should not stay.

A Nantucket Police Officer arrived at the hospital sometime after midnight in the early morning of July 22, 2002 and a nurse informed Lauren in her hospital room that the officer's name was James Samson. He was wearing a police uniform but, to Lauren, looked too young to be a police officer. Lauren told Samson that she was going to sleep and said that she did not mind if the officer watched the television even though the nurse had said that it was against policy for the officer to watch television. In the middle of the night, Lauren awoke with a stuffy nose and asked the officer for a tissue, which he provided. Lauren repeatedly woke up during the night, chilled, to find the covers off and she thought that she was just sleeping restlessly. Lauren woke up at one point to use the bathroom and drink some water. Each time she woke up, the police officer was either sitting in a chair near her bed or walking in and out of the room, but he did not engage in conversation with Lauren.

The next time that she woke up, she found the police officer next to her bed, the covers were off of her legs and body, her gown was pulled up from her legs, her underwear was pushed to the side and the police officer's fingers were inside her. When the police officer became aware that Lauren was awake, he quickly pulled his fingers out of her and pretended to be watching television.

Lauren immediately got up and, taking the mobile IV stand with her, went to speak with the nurses. The police officer followed her. Lauren told the nurse at the desk that she wanted to speak with her alone and that she wanted her mother. The nurse told Lauren that she would ask the officer to wait in another room. A second nurse sat with Lauren while the attending nurse asked the officer to leave. Lauren then told the second nurse what had happened.

Later in the morning, representatives of the Nantucket Police Department arrived and indicated to Lauren that they would give her a day to "really think about this before she made any accusations." They did not take a written statement. A nurse different from the attending nurse was present during the conversation. Mrs. Varallo and a counselor arrived in this time frame.

Lauren was eventually discharged to home with her mother later that day. Lauren thought about trying to go in to work, but she felt dirty and took a long, hot shower after which she stayed in her bedroom for the remainder of the day.

The next day, Tuesday, July 23, 2002, Lauren debated with her mother about going to work, because she wanted to go in and did not want to feel sickly or defeated. Lauren's mother checked with a counsellor and then called Lauren at work to ask her to go to the Rape Crisis Center for a sexual assault examination. Lauren met her mother at the center, where a so-called "Rape Test" was performed on her. The doctor indicated to Lauren that she should not have been allowed to clean up or take a shower until the sexual assault examination had been conducted. A counselor

**NOTE: CONFIDENTIAL MEDICAL INFORMATION IS CONTAINED IN THIS DOCUMENT**

then accompanied Mrs. Varallo and Lauren to the Nantucket Police Department where Lauren was told that the incident would be investigated. Even though the Police Department had indicated to Lauren and the Rape Crisis Center that the officer would be put on desk duty, friends of Lauren's brother had seen him on active duty at his usual post at Broad Street.

The Massachusetts State Police interviewed Lauren twice over the next week and a half and seemed much more understanding and motivated to investigate than the Nantucket Police Department had been.

**INTERROGATORY NO. 4**

Describe all of the injuries and complaints of any nature whatsoever (whether objective or subjective) as a result of this incident of which you, or your doctors are aware or suspect as follows:

- a. List and describe each in specific detail, giving the exact location within or upon your body of all your injuries, and nature of your complaint (whether physical, dental, emotional nervous, mental or psychological);
- b. If you have completely recovered from each such injury and complaint, state the date you recovered from such injury or complaint;
- c. List separately all of your present disabilities and complaints (whether objective or subjective), the frequency and duration of your complaints of pain, etc., the locations of and degree of any limitations of motion you now have, and a detailed description of any scars you have at the present time, which you attribute to the incident; and
- d. Separately list and describe each of your claimed permanent disabilities.

**ANSWER NO. 4**

Plaintiff objects to this interrogatory on grounds that it is overly broad, unduly burdensome and, given that this matter involves sexual assault, appears in some respects more intended to embarrass or oppress the victim than to obtain legitimate discovery. Plaintiff further objects that the interrogatory is vague, ambiguous and unclear in its use of the phrase "injuries and complaints of any nature whatsoever (whether objective or subjective)." Finally, plaintiff objects that the interrogatory is overly broad and unduly burdensome to the extent it requires the plaintiff to research and detail information contained in records she has previously produced in this matter.

REDACTIONS BY COUNSEL

**NOTE: CONFIDENTIAL MEDICAL INFORMATION IS CONTAINED IN THIS DOCUMENT**

conclusions, opinions, or legal theories of plaintiff's counsel and is not reasonably calculated to lead to the discovery of admissible evidence. Notwithstanding these objections, plaintiff directs the defendant to her objections and answers to Interrogatory Nos. 3, 4 and 5 above and, further, reserves the right to supplement her answer, to the extent deemed necessary, as an when appropriate, once the defendant has produced discovery propounded upon it.

Signed under the pains and penalties of perjury this 10 day of October, 2006.

Lauren Varallo  
Lauren Varallo

As to objections:

Peter J. Black, BBO No. 044407  
Bradley M. Henry, BBO No. 559501  
MEEHAN, BOYLE, BLACK & FITZGERALD, P.C.  
Two Center Plaza, Suite 600  
Boston, MA 02108  
(617) 523-8300

**CERTIFICATE OF SERVICE**

I, Bradley M. Henry, hereby certify that on OCTOBER 16 2006, I served the foregoing Plaintiff's Answers to Defendant, Town of Nantucket's First Set Interrogatories, by mailing an exact copy thereof, postage prepaid to all parties of record: Douglas I. Louison, Esq., Merrick, Louison & Costello, LLP, 67 Batterymarch St., Boston, MA 02110 and Philip Slotnick, Esq., Shocket & Dockser, LLP, 6 Huron Dr., P.O. Box 2219, Natick, MA 01760.

Bradley M. Henry

**EXHIBIT 2**

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS**

**DOCKET NO. 05-111547RWZ**

**LAUREN VARALLO  
Plaintiff,**

v.

**TOWN OF NANTUCKET POLICE  
DEPARTMENT and JAMES SAMSON,  
Defendant,**

**DEFENDANT, TOWN OF NANTUCKET'S ANSWERS TO  
PLAINTIFF'S FIRST SET OF INTERROGATORIES**

1. State your full name, date of birth, city or town of residence, business address, occupation and the position and/or title which you hold with the defendant.

**Answer:**

Charles Gibson, Deputy Chief of Police, Nantucket Police Department, 20 South Water Street, Nantucket, MA 02554.

2. Please identify each person or entity whom you consulted or caused to be consulted with respect to the matters inquired about in these interrogatories and, in answering, please specify for each such person or entity the interrogatory(ies) with respect to which consultation was sought.

**Answer:**

In addition to consulting with Attorney Douglas I. Louison in answering these interrogatories, I spoke with Sgt. Christine Ladner. I referred to those documents previously produced to the plaintiff through the Town's automatic discovery disclosure. Additionally, I reviewed portions of the Department's policies and procedures as well as reviewed certain relevant special orders of the Nantucket Police Department.

3. Please identify with specificity each document which you reviewed or caused to be reviewed with respect to the matters inquired about in these interrogatories and, in answering, please specify for each such document the interrogatory(ies) with respect to which it was so reviewed.

**Answer:**

I reviewed the documents previously produced to the plaintiff through the Town's automatic discovery disclosure. Additionally, I reviewed portions of the Department's policies and procedures as well as reviewed certain relevant special orders of the Nantucket Police Department.

4. If the defendant is insured for this claim, please answer the following questions with respect to each primary, excess and umbrella insurance policy applicable to the claim: please identify each and every primary, umbrella and excess insurer; please give the policy number and policy limits for each and every applicable insurance policy; if any such policy is an aggregate policy, please specify the aggregate amount of the losses which have been paid under each such policy to date; and if there is a deductible or self insured retention ("SIR") relating to any such insurance policy, please state the amount of the deductible or SIR and the terms under which it must be paid.

**Answer:**

A policy of insurance exists through the Massamont Insurance Company. The defendant will forward relevant coverage documents.

5. With respect to each expert witness whom the defendant expects to call at trial of this case (including liability experts, medical experts, vocational experts and economic experts), please provide the following information: please identify each such expert by full name, date of birth, residential address, business address, employer, occupation and job title; please specify fully and in complete detail, the facts upon which each such expert will base his or her opinions; please state fully and in complete detail, the substance of all such experts' opinions, conclusions, data and testimony which the

defendant expects to adduce at trial; and please specify fully and in complete detail the grounds upon which each such expert will base his or her opinions.

**Answer:**

I am advised that a final decision as to the identity and use of expert witnesses has not yet been made.

6. Please state the name, address and telephone number(s) of each person known or believed by the defendant to have knowledge regarding the circumstances and facts of the incident, liability or damages, as alleged in the Plaintiff's Complaint, including but not limited to employees, agents or representatives of the Town of Nantucket, the Nantucket Cottage Hospital, witnesses to the incident or its aftermath, medical personnel and investigators, and, for each, please provide a brief summary of the knowledge that each such person has or is believed to have.

**Answer:**

Please refer to those witnesses whose identities have been disclosed through the defendant's automatic discovery disclosures and production of documents response. I do not have a complete or specific understanding of the knowledge that each person might have beyond that related to the circumstances of the plaintiff's transportation and stay at the Nantucket Cottage Hospital and the defendant Sampson's employment with the Town of Nantucket.

7. Please describe the history of employment of Officer James Sampson had with the defendant including in your answer: each position, role or assignment for which he was hired; the date on which he was hired for each such position; any commendations of his performance for the defendant either from members of the public or within the department; any complaints made against him either by members of the public or within the department; any disciplinary action of any nature or description taken against him; the date on, and reasons for, his termination, resignation or discontinuance of work for the defendant.

**Answer:**

The defendant Sampson was originally hired in 2001 as a summer special officer. He was again hired for the same position in 2002. He was assigned in both years to downtown foot patrol, traffic duties. He resigned his position in August, 2002.

8. Please describe in detail the defendant's knowledge, both prior to and after 2:00 a.m. on July 22, 2002, of any matter involving Lauren Varallo including, but not limited to such matters as any calls for assistance, arrests, detentions, citations, alleged violations of law, convictions, instances of police or governmental custody, service as a witness to any criminal matter, etc .

**Answer:**

The defendant objects to the interrogatory seeking the municipality's "knowledge" of any matter involving the plaintiff. Such question is not subject to clear understanding. However, without waiving its objection, the defendant states: there was an original 911 call seeking an ambulance to the Varallo home due to injuries the plaintiff sustained. A Nantucket Police Officer was dispatched as well to respond to that call and plaintiff was subsequently transported to the Nantucket Cottage Hospital. The plaintiff was never in the custody of the Nantucket Police Department at any time.

9. If the defendant or anyone acting on its behalf investigated the incident alleged in the Plaintiffs' Complaint, please state: the name and address of each person who conducted or participated in such investigation; all dates upon which such persons conducted or participated in such investigation; the results, findings or conclusions of each stage of any such investigation; the identity, including name, address and telephone number of any witnesses identified during such investigation; and if the results or conclusions of the investigation were reduced to written or recorded form (including, but not limited to electronic mail), then please state the date(s), author(s), recipient(s) and a brief, general description of each such writing.

**Answer:**

Nantucket Police Sgt. Ladner and Det. Adams and Det. Mack conducted the investigation relating to the plaintiff's complaint. The personnel of the Massachusetts State Police subsequently took over the investigation.

10. Please describe in detail the policies and procedures used by the Nantucket Police Department: (a) to select, assign and instruct officers, representatives or employees to cover a detail involving protective custody of a particular individual; (b) to supervise, monitor and evaluate the conduct of such protective custody; and (c) to address, evaluate and investigate claims or complaints of misconduct on the part of officers assigned to a protective custody detail.

**Answer:**

The defendant objects to this interrogatory as it seeks information not likely to lead to the discovery of admissible evidence. However, without waiving its objection, the defendant states: At no time was plaintiff in protective custody. The Nantucket Cottage Hospital called the Nantucket Police Department seeking a detail officer. As with other complaints, if a complaint is received by the Nantucket Police Department, individual investigators will be assigned, depending on the nature of the complaint to conduct an investigation. There is not a separate procedure for the investigation of claims or complaints relating to protective custody matters.

11. Please identify (by name, rank, title or position, badge number, duty assignment and current address) all persons contacted, or whom the defendant attempted to contact, to cover the detail involving the protective custody of Lauren Varallo in July 2002 including in your answer: all persons responsible for initiating and following through with such communications; all persons reached or attempted to be reached by such communications; the means (e.g., telephone line numbers, mobile phone numbers, radio or radio-telephone, text message, pager, etc.) for each such communication; the date and time of each such communication; and the response or result of each such communication or attempt to communicate.

**Answer:**

There is no complete or concise record of persons who were asked to cover the detail. As best as I can determine, calls were made from the front desk to obtain an individual willing to fill the detail that was requested by the Nantucket Cottage Hospital. Some of those calls, but not necessarily all, were recorded and said recordings are produced in the compact disk produced as part of the Town of Nantucket's response to request for production of documents.

12. Please describe in detail the circumstances by which Officer James Samson came to be assigned to protective custody duty at Nantucket Cottage Hospital in July 2002 including in your answer, including the identities of all persons involved or with contemporary awareness of such circumstances, the persons responsible for such assignments and all persons responsible for supervising Officer James Samson on July 22,2002.

**Answer:**

At no time was James Sampson assigned to protective custody duty at Nantucket Cottage Hospital relating to the plaintiff. As indicated above, the Nantucket Cottage Hospital had the custody and care and control of the plaintiff. Hospital personnel called the Nantucket Police Department seeking a detail officer to appear. As indicated, calls were made by police personnel seeking a detail officer who was interested in filling the detail. As best as I can determine, the defendant Sampson responded that he was available. The defendant Sampson was under the general supervisory authority of the shift supervisor on duty.

13. Describe each and every instance in which an officer, representative or employee of the defendant was dispatched, assigned or assumed protective custody duties or detail at (a) the Nantucket Cottage Hospital (57 Prospect Street, Nantucket, MA; 508-825-8255) between July 20, 1992 and July 21,2002; and (b) any other medical facility of any type or description, between July 20, 1997 and July 21, 2002, including as to each and to the extent known: the reasons for the individual's placement in protective custody; the age and gender of each person in such custody; the full name, rank, title or position and the badge number of each person responsible for such duties; the date and duration of each

such detail; and the reason for assigning the particular officer, representative or employee to each such detail.

**Answer:**

The defendant objects to this request as it is overly broad and unduly burdensome and not reasonably calculated to lead to the discovery of admissible evidence. However, and without waiving its objection, the defendant states: Records are not maintained that would provide information responsive to this request relating to protective custody and/ or details at the Nantucket Cottage Hospital. In any regard, at no time was the plaintiff in protective custody of the Nantucket Police Department.

14. Please describe in detail each policy, procedure and/or technique used, or intended to be used, by the defendant or its officers, representatives or employees in gathering physical or forensic evidence and/or investigating an allegation of physical sexual assault against a person who is still at the scene or premises of the alleged assault.

**Answer:**

The defendant objects to this request as it is overly broad and unduly burdensome and not reasonably calculated to lead to the discovery of admissible evidence. However, and without waiving its objection, the defendant states: Beyond general and specific law enforcement and investigatory techniques, some information responsive to this interrogatory is contained within the Department's sexual assault policy, produced to the plaintiff through the Town's production of documents response.

15. Please identify each and every instance in which the defendant or its officers, employees or representatives, gathered physical or forensic evidence, investigated and/or interviewed any suspect in a case of alleged physical sexual assault between July 20, 1992 and July 22, 2002 and, in your answer: identify the officers, representatives or employees who gathered such evidence or undertook such investigation or interview(s); the nature of physical or forensic evidence gathered; and the identity of each laboratory, research facility, agency or specialist consulted to examine, handle or evaluate such evidence.

**Answer:**

The defendant objects to this request as it is overly broad and unduly burdensome and not reasonably calculated to lead to the discovery of admissible evidence. Further, the interrogatory seeks confidential non-discoverable information, the disclosure of which is prohibited by law. However, and without waiving its objection, the defendant states: In matters in which forensic evidence of a crime are gathered, the physical evidence is collected and such materials is transported to the Massachusetts State Police crime lab where State Police personnel conduct the actual testing thereof.

16. Please describe in detail the policies and procedures used by the Nantucket Police Department to investigate, evaluate and, if warranted, discipline officers, representatives and/or employees for instances of misconduct, including and not limited to, sexual harassment, sexual misconduct and/or sexual assault.

**Answer:**

The Nantucket policies and procedures manual relating to such incidents are produced to the plaintiff through the Town's response to request for production of documents.

17. Please describe in detail each and every arrest, detention, search, transport, instance of custody and/or confinement of any individual conducted by, executed by or directly involving defendant Officer James Sampson, including in your answer: the full name and address of the persons involved; the date, time and location of each such instance; and the reason or reasons for each such arrest, detention, search, transport, instance of custody and/or confinement.

**Answer:**

I am not aware of any such circumstances involving the defendant Sampson during his period of employment with the Town of Nantucket.

18. Please describe each and every complaint of sexual harassment, sexual misconduct and/or sexual assault alleged to have been perpetrated by an officer, representative or employee

of the defendant between July 20, 1992 and July 21, 2002, including in your answer: the full name and address of each complainant; the date of the alleged conduct; the circumstances surrounding the alleged conduct; the full name, address, rank, title or position and badge number of any and all persons against whom allegations were made; any and all disciplinary measures taken against such persons; and the result, findings or conclusion of any investigations, disciplinary, criminal or administrative proceedings related to such allegations.

**Answer:**

The defendant objects to this request as it is overly broad and unduly burdensome and not reasonably calculated to lead to the discovery of admissible evidence. However, and without waiving its objection, the defendant states: I am aware of one instance wherein such allegations were made. The Massachusetts State Police in or about 1997 investigated the allegations and to the best of my knowledge no charges or findings against the individual involved were made.

19. Please describe the policies, procedures, custom and practices of the defendant in hiring, confirming information contained in job applications, checking the background, resumes and/or references of applicants for the following positions: full-time police officers; part-time, temporary, seasonal or auxiliary police officers; departmental employees who or not law enforcement officers.

**Answer:**

The defendant objects to this request as it is overly broad and unduly burdensome and not reasonably calculated to lead to the discovery of admissible evidence. However, and without waiving its objection, the defendant states: In regard to seasonal personnel, the Department receives a written application from the applicant and thereafter the Department conducts a computerized criminal history check, RMV check and National Triple I check. Further, employment references are, at times, checked.

20. Please describe in detail all training provided, required, sponsored or suggested by the

defendant for both full-time police officers and for part-time, temporary, seasonal or auxiliary police officers with respect to: observing, protecting, guarding or supervising persons in custody, generally; observing, protecting, guarding or supervising persons specifically in protective custody; selecting, assigning, dispatching and instructing officers, representatives or employees to cover a detail involving protective custody of a particular individual; supervising, overseeing, monitoring or instructing part-time, temporary, seasonal or auxiliary police officers; initiating and completing an investigation of a reported sexual assault; and initiating and completing an investigation; and initiating and completing an investigation into accusations of sexual assault against an officer of the defendant.

**Answer:**

The defendant objects to this request as it is overly broad and unduly burdensome and not reasonably calculated to lead to the discovery of admissible evidence. However, and without waiving its objection, the defendant states: As to seasonal employees, they are processed through a two week/ eighty hour training program that encompasses the duties of a seasonal officer. Specific training as to protective custody is limited to observation activities. A seasonal officer would not be involved in a sexual assault investigation.

21. Describe in detail all law enforcement training and instruction provided to, required of, attended or received by, Officer James Samson prior to July 22,2002.

**Answer:**

The defendant Sampson attended and completed and received a certification through a Massachusetts Criminal Justice Training Academy for Reserve Police Officers in Boylston, Massachusetts. Such certification through a reserve academy was the equivalent to a full time police officer's accreditation. Sampson received greater training and certification than that which was usually required for seasonal employees through the Nantucket Police Department.

22. Please describe any changes, modifications, updates, supplementation, deletions and/or

additions to any of the rules, regulations, policies or procedures identified in any of the answers above since July 22, 2002.

**Answer:**

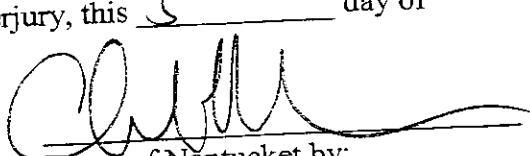
To the best of my knowledge, no changes have been made since July 22, 2002.

23 Please state with specificity the factual knowledge, information, belief and/or good faith factual basis upon which the defendant relied in asserting the following affirmative defenses in defendant's Answer to Plaintiffs Complaint (or, in the alternative, merely indicate the defendant's withdrawal of said defense): (No. 2) that "plaintiff failed to commence her action within the applicable statute of limitations;" (No. 3) that "plaintiff failed to effectuate notice of claim to the defendant as precedent to suit;" and (No. 4) that any alleged injury or damage sustained by the plaintiff "was caused by a person or persons for whom the defendant is not legally responsible."

**Answer:**

The defendant, Town of Nantucket objects to this interrogatory as it seeks legal conclusions. Without waiving said objection, the defendant states that as to affirmative defense no. 4, the Town asserts that any damages or injury sustained by the plaintiff was caused by James Sampson.

Signed under the pains and penalties of perjury, this 5<sup>th</sup> day of  
May, 2006.



Town of Nantucket by:  
Charles Gibson, Deputy Chief of Police

As to Objections:

Defendant, TOWN OF NANTUCKET,  
By its attorney

Douglas I. Louison (FBO # 545191)  
MERRICK, LOUISON & COSTELLO  
67 Batterymarch Street  
Boston, MA 02110  
(617) 439-0305

CERTIFICATE OF SERVICE

I, Douglas I. Louison, hereby certify that on the 9 day of May, 2006, I served the foregoing by causing a copy to be mailed, postage prepaid, directed to **Bradley Henry, Esquire**, Meehan, Boyle, Black & Fitzgerald, PC, Two Center Plaza, Suite 600, Boston, MA 02108 and **Philip Slotnick, Esquire**, Shocket & Dockser, LLP, 6 Huron Drive, PO Box 2219, Natick, MA 01760.

Douglas I. Louison

EXHIBIT 3

Page 1

VOLUME: I  
PAGES: 1 - 71  
EXHIBITS: None

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

- - - - -  
LAUREN VARALLO,  
Plaintiff,

vs

No. 05-11547-RWZ

TOWN OF NANTUCKET - POLICE  
DEPARTMENT AND JAMES SAMSON,  
Defendants.

- - - - -  
HIGHLY CONFIDENTIAL

COPY

DEPOSITION of LAUREN VARALLO, a witness  
called on behalf of the Defendant Town of Nantucket Police  
Department, taken pursuant to notice before Deborah L.  
Maren, Registered Professional Reporter and Notary Public in  
and for the Commonwealth of Massachusetts, at the offices of  
Merrick, Louison, & Costello, 67 Batterymarch Street,  
Boston, Massachusetts, on Monday, October 23, 2006,  
commencing at 10:35 a.m.

DUNN & GOUDREAU  
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ONE STATE STREET  
BOSTON, MASSACHUSETTS 02109  
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1 A. No.

2 Q. Do you recall seeing some sort of emergency medical  
3 technicians --

4 A. Yes.

5 Q. -- or paramedics? They came? Do you recall seeing  
6 any police officers coming to help?

7 A. Not that I know of.

8 Q. What happened next?

9 A. I was brought to the emergency room.

10 Q. In the ambulance?

11 A. Yes.

12 Q. Did anyone accompany you in the ambulance?

13 A. Not that I recall.

14 Q. When you got to the emergency room, were your parents  
15 there?

16 A. Yes.

17 Q. What occurred when you got to the emergency room?

18 A. I had seen a doctor, and I remember them bandaging up  
19 my wrist and telling me -- telling my parents in front of me  
20 that it was not a suicide attempt and it was just being  
21 angry. And it wasn't anything to worry about but because of  
22 the condition, I was admitted into the hospital.

23 Q. What do you mean?

24 A. Drinking.

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1 A. I recall that plain as day. She liked my shoes, and  
2 she wore a size 10. And I said, You can have them if you  
3 want them. But her feet were too big.

4 Q. How were you dressed at that point?

5 A. I think at that point I was in a gown.

6 Q. A hospital gown?

7 A. Yes.

8 Q. When you got to the hospital, what were you wearing?

9 A. I'm not sure.

10 Q. But clothes that you had changed into at the house?

11 A. Correct.

12 Q. And at some point you had changed into a hospital type  
13 of gown?

14 A. Correct.

15 Q. What happened next?

16 A. My mom left, and the officer came on duty as the  
17 protective custody.

18 Q. Did you know who that was?

19 A. I had seen him before on the streets in Nantucket.

20 Q. And did you recognize him as someone on the --

21 A. A summer cop.

22 Q. Yes, okay. Had you ever talked to him before?

23 A. No.

24 Q. You just recognized him as a summer cop; correct?

Page 21

1 A. Correct.

2 Q. And when he came into the room, did you have any  
3 conversation with him? Or did he introduce himself to you  
4 or anything like that?

5 A. Yes. He had introduced himself and then --

6 Q. Do you have any conversation with him?

7 A. Yes. I told him he could watch the TV. And then the  
8 nurse had said that that was not -- he was not allowed to do  
9 that, but he took the remote anyway.

10 Q. Now, when he came into the room, were you in bed? Or  
11 were you standing up? What were you doing?

12 A. In bed.

13 Q. And he came over and you had some sort of introduction  
14 or discussion?

15 A. Yes.

16 Q. And when did you hear or learn that he wasn't supposed  
17 to watch television?

18 A. Right after the conversation that I had had with him  
19 about he could change the channel and watch TV if he wanted.

20 Q. And then did a nurse come in? Or how --

21 A. And a nurse was standing there and said, That's  
22 against hospital policy. He cannot do that.

23 Q. And then what happened next?

24 A. He watched TV.

Page 24

1 Q. To which side of the bed?

2 A. To the right.

3 Q. Did you have any contact or communication with the  
4 officer when you did that?

5 A. I don't remember.

6 Q. Was that the only time you recall getting up and out  
7 of bed?

8 A. I may have gotten up one other time to go to the  
9 bathroom.

10 Q. Did you have any conversation with the officer beyond  
11 what we've already talked about up to that point?

12 A. There was one point later where he was on this side of  
13 my bed adjusting the -- like the blinds and said, It's  
14 getting very bright in here; morning is here or something  
15 along those lines, which I thought was kind of odd.

16 Q. Why?

17 A. Every time I remember waking up he would be in a  
18 different position in the room.

19 Q. How many times do you recall, if you can, or estimate  
20 recalling the times you woke up and observed him in the  
21 room?

22 A. I'm not sure how many times.

23 Q. But you recall sleeping through the night?

24 A. I recall waking up several times during the night.

Page 25

1 Q. At some point did something cause you some concern or  
2 alarm?

3 A. Yes.

4 Q. What happened?

5 A. Well, at different points during the night, I actually  
6 had been waking up, and my covers would be off. And I was  
7 not necessarily alarmed, but I was freezing cold. It's so  
8 cold at night, and I only had that gown on.

9                   And I thought, you know, that I had just been  
10 sleeping restlessly. But I'm not a restless sleeper, but I  
11 thought maybe it was just me.

12 Q. How many times did that occur?

13 A. A few.

14 Q. Then what happened next?

15 A. Then I woke up -- after the turning of the blinds, I  
16 woke up with Officer Samson over me with my gown up.

17 Q. Let me stop for a second. How much time elapsed, if  
18 you can recall, between when you had that conversation about  
19 the blinds and this next contact?

20 A. I do not know.

21 Q. Okay. Do you think you fell back asleep after?

22 A. Yes.

23 Q. And given that his comment was that morning had come,  
24 this next contact that you're about to describe, that was in

Page 26

1 the morning hours?

2 A. Yes.

3 Q. All right. Do you have a specific recollection of  
4 what time it was?

5 A. No.

6 Q. All right. Go on then.

7 A. I woke up with my gown -- my covers off, my gown up,  
8 him over me with his fingers touching my vagina.

9 Q. And what did you do?

10 A. I woke up, and I was -- I felt like I was going to  
11 throw up. And he pulled back very quickly and asked me what  
12 was wrong. And I didn't say anything. I grabbed -- got out  
13 of bed and grabbed my IV because I had an IV attached. And  
14 I walked as quickly as I could to the nurses' stand to the  
15 right-hand side.

16 Q. Okay. And then what did you do?

17 A. I asked if I could speak to one of the nurses alone.  
18 Meanwhile, he kept asking me what was wrong and how he could  
19 help me.

20 Q. Did he follow you out of the --

21 A. Yes. That's why I asked if I could speak to one of  
22 the nurses alone because I didn't want him to hear what had  
23 gone on.

24 Q. And then what happened next?

Page 27

1 A. I said -- and the nurse brought me into a room right  
2 like behind the nurses' stand. And I told her what had  
3 happened. And I remember her giving me a blanket. And we  
4 were in there -- I sat down in a chair. And we were in  
5 there for a little bit. And she told me I could come back  
6 into my room, and he wasn't there anymore. And they told me  
7 to go back to bed.

8 Q. Okay. What happened next?

9 A. I asked -- before I went back to bed -- I wanted to  
10 speak to my mom. But they said they couldn't call my mom.

11 Q. And what happened next that you recall?

12 A. Then they told me to calm down. I think they gave me  
13 some water. And I tried to go back to sleep, and I finally  
14 got back to sleep.

15 Q. How long did you sleep for?

16 A. I'm not sure.

17 Q. What happened next?

18 A. I woke up, and there was a -- I remember a nurse being  
19 in the room, a different nurse than I had seen in the  
20 night. I guess they switched -- changed shifts or  
21 something.

22 Q. Did you talk to her?

23 A. I do not remember.

24 Q. Was she a different nurse than the nurse you informed

Page 30

1 A. Because of my supposed suicide attempt.

2 Q. So my point being, as far as you understand, the  
3 counselor came because of the reason why you were admitted  
4 and not because of the accusation you had made?

5 A. Correct.

6 Q. And was she there with you alone? Or was she there  
7 with you with your mother?

8 A. I don't know.

9 Q. And did you talk with that counselor?

10 A. Yes.

11 Q. And did you talk about the events of the preceding day  
12 and night?

13 A. Yes.

14 Q. Did you talk about the accusations about Samson with  
15 her?

16 A. Yes.

17 Q. And I'm sorry. I know I asked you this. Was your  
18 mother present during that or not?

19 A. I'm not sure.

20 Q. And then were you alone with your mother at some  
21 point?

22 A. I'm not sure.

23 Q. All right. And you made reference to an Officer Mack  
24 coming to see you; correct?

Page 31

1 A. Yes.

2 Q. How do you recall his name?

3 A. I just remember him being such a big guy that I  
4 couldn't forget him.

5 Q. The name? Now, did he come in with anyone else?

6 A. One other officer.

7 Q. And was your mother present at that time?

8 A. Yes.

9 Q. Were you still in your johnnie or robe or whatever it  
10 was?

11 A. Yes.

12 Q. Were you still in the room?

13 A. Yes.

14 Q. And what occurred when you had that contact with the  
15 officers?

16 A. They told me that they had known of what had gone on  
17 or what supposedly had gone on that night with Officer  
18 Samson. And I need to make sure that I want to press  
19 charges like this before it could ruin someone's life.

20 Q. And what did you say?

21 A. I said, I'm sure.

22 Q. Were you at that point feeling any effects of your  
23 intoxication?

24 A. No.

Page 32

1 Q. Can you recall, when was the last point you had any  
2 intoxication effects from your admission to the morning?

3 A. Probably right after I went to sleep the first time.

4 Q. Because when you next awoke after that first time, do  
5 you recall having any effects of intoxication?

6 A. Not that I recall.

7 Q. Did you describe as you described today to Officer  
8 Mack and the other officer what had occurred?

9 A. Yes.

10 Q. And you indicated what they said to you?

11 A. Correct.

12 Q. And after you indicated your -- your insistence of  
13 going forward, what next occurred?

14 A. They still treated me like they didn't believe me.

15 Q. Okay. And why do you say that?

16 A. I was just constantly questioned about the -- what had  
17 gone on and how can you ruin this young man's life and how  
18 this is serious charges. It was reiterated so many times  
19 that I knew that they doubted me.

20 Q. Okay. At some point they left?

21 A. Yes.

22 Q. Was your mother present at any time when they were  
23 there?

24 A. Yes.

Page 40

1 mother went to the rape crisis center; correct?

2 A. Correct.

3 Q. And then sometime after that, you saw a counselor  
4 there?

5 A. Yes. After I had a rape test.

6 Q. When was this rape test administered?

7 A. The 23rd.

8 Q. How did that come about?

9 A. The crisis center had told my mom that that's what --  
10 that was the standard procedure, and that was -- that should  
11 have been done when there's someone accused of a crime like  
12 this.

13 Q. And where did you go for that?

14 A. The hospital.

15 Q. Back to the hospital?

16 A. Correct.

17 Q. And did personnel administer the test?

18 A. Yes.

19 Q. And that was on what, the 23rd or the 24th?

20 A. The 23rd.

21 Q. Who accompanied you then?

22 A. My mom.

23 Q. And at some point after that you went to the center?

24 A. I think it was right after that.

UNITED STATES DISTRICT COURT FOR  
THE DISTRICT OF MASSACHUSETTS

05-11547-RWZ

LAUREN VARALLO,  
Plaintiff,

v

TOWN OF NANTUCKET - POLICE  
DEPARTMENT and JAMES SAMSON,  
Defendant.

Deposition of JOHN D. WELCH, taken on  
behalf of the Plaintiff, pursuant to Notice  
under the Federal Rules of Civil Procedure,  
before Janice A. Maggioli, RPR, RHR, CRR, and  
Notary Public in and for the Commonwealth of  
Massachusetts, at the Nantucket Police  
Department, 20 South Water Street, Nantucket,  
Massachusetts, on January 4, 2007, commencing  
at 10:00 a.m.

MAGGIOLI REPORTING SERVICES, INC.  
48 Watson Street  
Braintree, Massachusetts 02184  
(781) 356-2636

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JOHN D. WELCH

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EXHIBITS

<u>Id.</u>	<u>Description</u>	<u>Page</u>
1	Deposition notice	4

**EXHIBIT 4**

STIPULATION

It is agreed by and between counsel  
for the respective parties that the reading  
and signing of the deposition will not be  
waived. All objections, except as to the form  
of the question, and motions to strike will be  
reserved until the time of trial.

(Exhibit 1, Deposition Notice,  
marked for identification.)

MR. BOYLE: We're taking Officer  
Welch's deposition here this morning pursuant to  
a notice of taking deposition that was served in  
November of '06. We've reconvened in January of  
'07 for the deposition.

We will reserve all objections,  
except as to the form of the question. We'll  
reserve all motions to strike until the time of  
trial. Would you like the witness to read and  
sign the deposition?

MR. LOUISON: That will be  
appropriate. Just under the pains and penalties  
of perjury will be fine. I'll explain that to  
you afterwards.

THE WITNESS: Okay.

	9		11
1    Q.	So you have some familiarity with what his	1    Q.	Now, are you familiar -- I assume you are
2    training would have been and what would have	2    familiar from your years with the various	3    policies and procedures that are followed by the	3    Nantucket Police Department?
3    been expected of him?	4	4	4
4    A. Yes.	5    Q.	5    A. Yes.	5
5    September of '88 you went to the police academy?	6    A. Yes.	6    Q.	And I take it that some of those procedures find
7	7    And where did you attend that?	7    themselves in the procedure manual, correct?	7
8    A. Barnstable Police Academy in Barnstable,	8	8    A. Correct.	8
9    Massachusetts, and if I might add, it was the	9	9    Q.	And I assume that there are also other practices
10   62nd class of that academy, which is no longer.	10	10	10   that are followed fairly uniformly, which are
11   Q.	11   The academy is gone?	11	11   verbal and are not in the manual?
12   A. That academy has closed.	12	12   A. Yes.	12
13   Q.	13   And how long was your tour of duty at the	13   Q.	Are you familiar, for example, with protective
14   academy?	14	14   custody?	14
15   A. 14 weeks.	15	15   A. Yes.	15
16   Q.	16   You came back to Nantucket after that?	16   Q.	And how did you become familiar with the concept
17   A. Yes, sir.	17	17	17   of protective custody?
18   Q.	18   And were commissioned as a full-time officer?	18   A.	18   Well, that is early on a very common incident
19   A. Yes, sir.	19	19	19   that we run across on this island, mostly, in
20   Q.	20   And from 1988 through the present have your	20	20   part, because it's a resort community, and our
21   responsibilities remained the same or have you	21	21	21   summer months bring a lot of revelers,
22   progressed through the ranks?	22	22	22   good-timers, and at times there is intoxication
23   A. There is a progression. That progression is	23	23	23   that we continually run into, which exposes us
24   limited to pretty much seniority. The job	24	24	24   to the protective-custody statute.
	10		12
1    description is very much the same as it was when	1    Q.	1    Q.	Are you also familiar with the custom and
2    I had graduated from the academy, but through	2	2	practices of the police department as regards
3    the years there are seniority situations that	3	3	details?
4    now become part of your patrol.	4    A.	4    A.	We define it as a third-party detail. Is
5    Q.	5    And when you say "seniority," does that play	5	5    that --
6    itself out in terms of what shift you get and	6    Q.	6    Q.	6    Okay.
7    the like?	7    A.	7    A.	7    Yes.
8    A. Yes.	8    Q.	8    Q.	8    And what do you understand to be a third-party
9    Q.	9    But your fundamental responsibility is pretty	9	9    detail?
10   similar to what you started out at almost 20	10   A.	10   A.	10   A third-party detail is -- it's a request for
11   years ago?	11	11	11   police presence, not incorporated with our
12   A. Correct.	12	12	12   general duty, our general shift assignment, paid
13   Q.	13   And how would you describe for the court and	13	13   by the third-party requestee or private party, I
14   jury that day-to-day responsibility? Are you on	14	14	14   should say.
15   patrol? Are you in a car? Are you on foot?	15   Q.	15   Q.	15   So is a detail -- are details considered to be
16   A. I am currently assigned to the airport as one of	16	16	16   optional?
17   the three airport officers which oversees	17   A.	17   A.	17   Yes.
18   security for the TSA, as well as the local	18   Q.	18   Q.	18   So that --
19   airlines.	19   A.	19   A.	19   Unless directed by the chief.
20   Q.	20   So you're part of the responsibility for	20   Q.	20   Q.
21   outgoing flights?	21	21	21   So, if a request for what you have defined as a
22   A. Yes, sir.	22	22	22   detail were to come in and you found yourselves
23   Q.	23   And how long have you been doing that?	23	23   without the proper resources to fulfill that
24   A. Going on year number three.	24   A.	24   A.	24   detail, the department can decline the detail?

## VARALLO V TOWN OF NANTUCKET

	21	1      me correct. 2      Q. How often does the hospital call the police 3      department and ask you to send an officer over 4      to watch a patient at the hospital? 5      A. Not often. 6      Q. So it's a rarity? 7      A. It is. You could define it as a rarity I would 8      say. 9      Q. Does it happen -- well, you have been with the 10     department for I guess around 18 years? 11     A. Yes, sir. 12     Q. And so it's happened to you once? 13     A. I can recall one specific third-party detail 14     that I had taken at the hospital for a 15     distraught elderly woman. There may have been 16     more, but over the years what stands out is that 17     specific one. 18     Q. Are PCs at the hospital much more common? 19     A. No. 20     Q. You've done about six at the hospital you 21     indicated? 22     A. Yes. Protective custody, unless the actual 23     incident occurred at the hospital where you had 24     an intoxicated person acting up inside the	23
	22	1      hospital and the hospital calls us and says, "We 2      need assistance here," and upon arrival we 3      discover that the person is intoxicated, under 4      the influence, we'll say, they are placed in 5      protective custody at that moment, and now they 6      are in our custody. 7      Generally, 99 percent of the time 8      protective custodies originate here at the 9      police department, and when I say "originate 10     here," they have been placed in protective 11     custody outside the police department via a 12     visual by an officer, a telephone call, a 911 13     call where we responded to a call about a 14     distraught person, and a drunk person, and 15     somebody under the influence and violent. 16     So, we have contact that way. We 17     bring them here. The booking procedure is done 18     here. If evaluations need to be done, it's done 19     here, and then it can expand to the hospital if 20     that's what's needed. 21     Q. Do you have any contractual arrangement with the 22     hospital to provide details at the hospital? 23     A. If there is. I'm not aware of a contractual 24     agreement.	24
	22	1      trained female personnel to frisk that woman. 2      Q. Now, how about with regard to if you have an 3      incarcerated woman, how about with regard to an 4      officer going into that woman's cell, is there 5      any practice in terms of gender in that 6      situation? 7      A. Your question is female or male officer entering 8      the cell area? 9      Q. Correct. 10     A. I'll respond with a general rule of thumb. Our 11     practice -- and whether it's in our policy and 12     procedure book or not, I'm not sure, but our 13     practice is a woman on a woman, a woman one on 14     one with a male nearby in the frisking of a 15     female party. 16     If a female is not available, it 17     would be two male officers that one actually 18     performs the frisking and the other one is -- 19     provides a visual. There is a second party, a 20     bystander. So we try to eliminate the 21     one-on-one male frisking a female alone with 22     nobody present -- nobody else present. 23     Q. Would that also be true for entering a female's 24     cell; for example, if there was some reason that	24

25

- 1 an incarcerated female had to be helped for any  
 2 reason in her cell?
- 3 A. It is our practice when you enter the cell area  
 4 if the door remains locked, the cell door  
 5 remains locked, you can have conversation one on  
 6 one. If you were to open the cell door for any  
 7 kind of contact, there would two male officers,  
 8 except in the case of a female where there's  
 9 less of a requirement amongst ourselves to have  
 10 two parties there.
- 11 Q. So. If I'm hearing you, that if the  
 12 incarcerated party is behind bars and the lock  
 13 is not opened, there can be contact between one  
 14 male police officer and an incarcerated female?
- 15 A. But not physical contact. It's limited to  
 16 verbal contact.
- 17 Q. Thanks for that correction. If the cell is to  
 18 be opened, the first preference is to have a  
 19 female present?
- 20 A. Correct.
- 21 Q. And there is -- if there is a female present,  
 22 there's less of a requirement that there be a  
 23 second officer present with that female to open  
 24 the woman's cell?
- 1 with women prisoners begins at the police  
 2 station?
- 3 A. For the most part, yes.
- 4 Q. So the initial apprehension of a woman suspect  
 5 would be made by the nearest available officer?
- 6 A. Correct.
- 7 Q. Now, how would a young officer -- would Officer  
 8 Samson, for example, have been taught about  
 9 these policies that you have now described for  
 10 me?
- 11 A. Which specific policies?
- 12 Q. Well, involving women who are interacting with  
 13 police officers.
- 14 A. Yes.
- 15 Q. And in what setting would he have learned about  
 16 those policies?
- 17 A. He would have been taught that early on in the  
 18 classroom setting. It would have been his  
 19 criminal-justice training prior to his full-time  
 20 street employment as a reserve officer.
- 21 Q. Now, you've also used the expression, quote,  
 22 "one on one," end quote. What does that mean?
- 23 A. One on one is if an officer is going to watch a  
 24 detainee, a person in our custody more or less

26

- 1 A. Correct.
- 2 Q. If a man is going to open the cell, there's got  
 3 to be a second officer -- a second male officer  
 4 present?
- 5 A. Yes.
- 6 Q. I think I've got it. Now, if you could give me  
 7 the fullest explanation of why you have those  
 8 policies that you've just described?
- 9 A. I can sum it up in one word for you, and that is  
 10 liability.
- 11 Q. By which you mean what?
- 12 A. We, as police officers, are very much in tune to  
 13 liability situations, situations where you can  
 14 be put in a legal position merely by -- merely  
 15 by your presence.
- 16 Q. Now, these practices with respect to women being  
 17 searched and women in cells, do they also extend  
 18 to the apprehension of women suspects; for  
 19 example, if there's a complaint of a crime, be  
 20 it a felony or misdemeanor being committed by a  
 21 woman, and you need to respond, is there an  
 22 effort to send a woman out?
- 23 A. No.
- 24 Q. So the interaction involving women interacting
- 1 related to a suicide watch within our  
 2 department, within our station, it would be a  
 3 one-on-one visual where an officer would have  
 4 this person in his visual sights at all times.
- 5 Q. And is that what a suicide watch is, 100 percent  
 6 visualization of the person in custody?
- 7 A. Yes.
- 8 Q. And if the officer has to leave that person,  
 9 does he or she have to get coverage?
- 10 A. Yes.
- 11 Q. And is that required by any written procedure or  
 12 is that required by custom and practice?
- 13 A. That is procedure specifically for a suicide  
 14 watch.
- 15 Q. So, if I understand it, if there's a suicide  
 16 watch in the situation, you use the term "one on  
 17 one," and that means 100 percent visualization  
 18 of the detained person?
- 19 A. Correct.
- 20 Q. And is there -- if the detained person is a  
 21 female, do you have a custom and practice to try  
 22 to assign a female to the one on one?
- 23 A. Yes.
- 24 Q. And has that been the practice as long as you

28

29

1 can remember?

2 A. Yes.

3 Q. And how many female police -- full-time police  
4 officers were on the force back in '02,  
5 approximately?

6 A. I cannot say with exact certainty, but I would  
7 say at least three regular women officers.

8 Q. So, on a suicide watch within the station  
9 itself, if it's a detained woman, your policy is  
10 to have a woman conducting -- a woman officer  
11 conducting the watch, correct?

12 A. The policy isn't to have a woman watch the  
13 detained person. The policy is that that's what  
14 is encouraged by the policy. If we were to go  
15 back down the callback list, there would be  
16 emphasis on a woman first, on a woman officer  
17 first.

18 Q. Because for a number of reasons: The department  
19 has determined that on a one-on-one observation  
20 of a woman detainee, a woman officer is the  
21 appropriate person to try to get?

22 A. Yes. That is encouraged, yes.

23 Q. Now, I would assume that if the watch were going  
24 to take place in the context of a detail, but it

1 A. That is the policy of the department at large  
2 within our department within our protective  
3 custody policy.

4 Q. Sure. But if we shift it from a PC to a detail,  
5 the person is still a suicide risk and an  
6 officer is going to be there, that policy  
7 doesn't change, does it?

8 A. Well, it does change because now you have to  
9 define "custody." That person, that party that  
10 you're describing as a suicide risk isn't in --  
11 that's not our custody. That's not the -- that  
12 party is not in our custody for reasons of  
13 whatever they might be to have them there. That  
14 becomes a separate incident. You are describing  
15 a suicide person at a medical facility.

16 Q. Right.

17 A. Without our custody of that person.

18 Q. Well, let me come back and see if I can more  
19 clearly understand what you are telling me.  
20 Your personal practice is that if there's a  
21 detail that has to be done watching a person who  
22 might have attempted suicide at the Cottage  
23 Hospital, you personally would try to find a  
24 woman to send out there, correct?

30

1 were still a person who had threatened suicide,  
2 and that person was a female, you would also  
3 attempt to get a female to conduct that watch,  
4 correct?

5 MR. LOUISON: Objection to the  
6 form.

7 A. That would come just from mere experience. You  
8 would -- a police officer would automatically  
9 turn to that just from practice, just from being  
10 familiar with incidents involving women.

11 Q. So whether it comes from human nature or  
12 otherwise, would it be fair to say that the  
13 practice which you always followed as an officer  
14 was that if there were a detail involving  
15 watching a woman who had attempted suicide, you  
16 would try to find a woman?

17 A. I would feel more comfortable with a woman  
18 officer, yes.

19 Q. And you would try to find one?

20 A. Yes.

21 Q. And, that is, you would have to agree, the  
22 policy of the department at large, as well;  
23 would that be fair to say?

24 MR. LOUISON: Objection.

1 A. Correct.

2 Q. And would it be fair to say that that  
3 preference, you're not the only one who has it  
4 at the Nantucket Police Department, are you?

5 A. No.

6 Q. Would it be fair to say that all of the other  
7 officers in the same situation would try to find  
8 a woman?

9 A. Yes.

10 Q. And that is what the department expects you to  
11 do?

12 MR. LOUISON: Objection to the  
13 form.

14 MR. BOYLE: Fair enough.

15 A. That's what our department would encourage us to  
16 do, not expect, but encourage.

17 Q. And I don't mean to parse words, but would it be  
18 fair to say that in the situation I described, a  
19 woman in bed, may be a suicide risk, at the  
20 hospital, is going to be watched by an officer,  
21 the department would like you to first try to  
22 find a woman?

23 A. To fulfill that request, yes.

24 Q. And that's the protocol?

31

32

	33		35
1 A. Yes.		1 Q. Anything else?	
2 Q. Now, I assume also -- you mentioned that you had		2 A. We could go on and on about this.	
3 one detail with an elderly woman at the		3 Q. You have to end the suspense.	
4 hospital. Would it be fair to say that that		4 A. It was a July evening, mid to end July, and July	
5 policy would be all the more important if the		5 historically is a very active time, July and	
6 person in the hospital were a 20-year-old		6 August in Nantucket, the community resort thing.	
7 female, that you would want to find someone		7 We're very active. We're very busy, so it was a	
8 other than a 20- or 21-year-old man for that		8 typical July evening shift with many a calls for	
9 detail if you could?		9 police assistance.	
10 MR. LOUISON: Objection.		10 Q. And do you remember a call relating to Lauren	
11 A. The incident I was involved with, the one I can		11 Varallo?	
12 recollect, involved an elderly woman who was		12 A. I do.	
13 attempting suicide and required a search by our		13 Q. Tell me what you remember, please.	
14 department to try and locate her. Her family		14 A. The 911 -- our E911 phone system was a little	
15 members relayed to us she was distraught and		15 active that evening, and there were two that had	
16 suicidal.		16 come in, two 911 calls almost simultaneously.	
17 Q. Okay.		17 Q. Okay.	
18 A. So our contact with her stems from an initial		18 A. One was an elderly man who had fallen and	
19 call. She was located in her car on the beach.		19 injured himself, and that required a police	
20 She had attempted some form of --		20 response and medical assistance.	
21 Q. Harming herself?		21 Q. Okay.	
22 A. Yes, of harming herself. She was transported to		22 A. The other was a suicidal female.	
23 the hospital via ambulance. Working the shift,		23 Q. Okay.	
24 I became involved with the incident. She was		24 A. And the first 911 call was the elderly male, and	
	34		36
1 being treated and evaluated at the hospital.		1 I had answered that call. The second 911 call	
2 After my shift had finished, my actual required		2 was answered by a patrolman that was working the	
3 shift had finished, I had stayed for the		3 shift that was in the dispatch area.	
4 third-party detail to watch her until she was		4 Q. Okay. And what else do you remember about the	
5 able to go to a facility.		5 Lauren Varallo incident?	
6 Q. Did it begin as a PC?		6 A. I really don't have a full recollection. I know	
7 A. She -- that's a tough one. It began as an		7 there were conversations in the dispatch area	
8 incident, and the actual custody of her was		8 about, okay, who is going to be sent to this,	
9 never completed. She was -- an ambulance was		9 that, and the other thing because, as well as	
10 called in, and we assisted and followed her to		10 the E911 system that we have, we also have that	
11 the hospital and remained to assist her.		11 walk-in foyer where people just continually walk	
12 Q. Now, the events that occurred involving Lauren		12 in and out with questions or incidents they'd	
13 Varallo, do you have a memory, as you sit here		13 like to report.	
14 today, of that night? Do you remember that		14 So there was a lot going on, but	
15 night at all?		15 you try to -- you try to know about each	
16 A. I do have some recollection of that night, yes.		16 incident, at least something about it.	
17 Q. And is that recollection independent from just		17 Q. Yes.	
18 reading logs? Does it trigger in your mind some		18 A. And I have a recollection that John Moran --	
19 memory of that night?		19 Officer John Moran, who answered that 911 call	
20 A. It was actually triggered by your notification		20 by her family, Lauren's family, involved a bad	
21 and counsel's notification that I was going to		21 situation in that she had attempted to slit her	
22 be called for a deposition.		22 wrists.	
23 Q. What do you remember about that night?		23 Q. Was an ambulance dispatched?	
24 A. I recall being assigned to the dispatch desk.		24 A. Yes.	

## VARALLO V TOWN OF NANTUCKET

	37	1     vehicle, his police cruiser, his assigned 2     cruiser. 3 <b>Q.</b> And do you know how long he stayed at the 4     hospital? 5     A. I do not. 6 <b>Q.</b> What other contact, if any, did you have with 7     the Varallo matter? Were you present when calls 8     came in from the hospital looking for a police 9     officer? 10    A. Yes. 11 <b>Q.</b> Is there anything you remember between when you 12    or someone else dispatched the police officer 13    and the ambulance until the hospital called? 14    Did anything else happen that you can recall 15    involving the Varallo matter? 16    A. The only thing I can recall regarding the 17    Varallo matter was there was a reported assault 18    and battery that had taken place between Lauren, 19    the woman that attempted suicide, and her 20    mother, which is why we had Officer Muran's 21    involvement, which is why he accompanied the 22    ambulance to the hospital, to retrieve that 23    report. 24 <b>Q.</b> What's the next thing you remember about the	39	
	38	1     at the time whose name I can't recollect right 2     now. The second one was Officer John Moran, the 3     officer that actually took the E911 call from 4     Lauren's home. 5 <b>Q.</b> But who sent the bike officer to the house? 6     A. That could have been either John Moran or 7     myself. 8 <b>Q.</b> And how do you determine whether you are going 9     to send the ambulance plus an officer as opposed 10    to just the ambulance? 11    A. That would depend on the nature of the incident, 12    what that specific incident involved. If it 13    involved a violation of law, criminal law, 14    public-safety issues of the like would dictate 15    the police involvement to the 911 call that 16    would require us to continue that involvement to 17    the Cottage Hospital. 18 <b>Q.</b> And the officer did go along to the Cottage 19    Hospital? 20    A. He did. 21 <b>Q.</b> Not on his bike, I assume? 22    A. No, sir. 23 <b>Q.</b> Hopped in the ambulance? 24    A. No. He would have traveled in his police	1     Varallo matter? 2     A. I remember the hospital calling for a patient 3     watch, and I can't say with certainty, but I 4     believe that they had requested a suicide watch. 5 <b>Q.</b> That's your best memory? 6     A. Yes. 7 <b>Q.</b> And was it your job to try to find someone? 8     A. Yes, yes. Upon that request, yes. 9 <b>Q.</b> And do you have a memory of trying to find 10    someone? 11    A. I do. 12 <b>Q.</b> Can you tell me everything you remember about 13    what you did to try to find someone? 14    A. I would have followed our general shift 15    assignment log, which we have of current 16    officers working the shift or officers available 17    to work a shift, and I recall it being very 18    active that evening. It was very busy, and 19    right, wrong or indifferent, I believe I elected 20    to rather than run down the immediate shift 21    list, the ones that were working with me at the 22    time, the ones that were on the shift, dogging 23    them with calls that they were already on with 24    another call of, hey, when you finish that, when	40

		43
1	you finish the shift, do you want to cover a	1 arrangements for the season to stay wherever
2	detail at the hospital, I had telephoned the	2 that might be.
3	Loran station, the barracks, which houses our	3 Q. Are the reserve officers on beepers of any kind,
4	reserve officers.	4 pagers?
5	Q. So you didn't -- your first call to try to fill	5 A. I would say no, but it's possible that some are.
6	this request from the hospital was to the	6 Q. And who did you speak with? What did you say?
7	reserve officers?	7 A. I'm not sure who I spoke with. I relayed to
8	A. Yes.	8 whoever -- whatever reserve answered the phone
9	Q. As opposed to the on-duty --	9 that there was a third-party suicide watch at
10	A. Yes.	10 the hospital, and if anybody was interested,
11	Q. -- or the -- are they call regular officers?	11 that would be great, and if this specific person
12	A. Regular, full time.	12 wasn't interested, if he -- I'm pretty sure it
13	Q. And you knew the patient was a woman?	13 was a he, a male officer, could he find somebody
14	A. I had learned it was a woman just with	14 out there that would cover the third-party
15	conversation because we had two. We had the man	15 detail.
16	who had fallen, who also was transported, and we	16 Q. Now, your personal preference was to have a
17	had --	17 woman do this, correct?
18	Q. The potential suicide.	18 A. Correct.
19	A. Yes, and we had that one at the same time, and I	19 Q. And you understood that to be consistent with
20	don't know how direct the hospital was with	20 department recommendations?
21	saying who it was, but I know that they called	21 A. Correct.
22	asking for a third-party detail officer.	22 Q. And yet the first person you encountered at the
23	Q. But you made the connection, I assume, in your	23 reserve barracks was a male, and you offered the
24	mind between this suicide that had just been	24 detail to that person.
		44
1	phoned in and the watch?	1 A. We actually had a female reserve officer working
2	A. Yes. That would have been ascertained right	2 the shift that evening that wasn't finished with
3	after the phone call because we would have been	3 her shift until 2 o'clock. So she was not
4	in the dispatch area, "we" being any of the	4 available until 2 o'clock.
5	officers, okay, which one is this the hospital	5 Q. And who was that?
6	wants? It's a suicide watch on somebody they	6 A. Officer Caron.
7	have up there. Well, it's got to be the girl.	7 Q. But you called the barracks, got a male officer,
8	Q. So you knew it was a young woman?	8 and offered the detail to him?
9	A. Yes.	9 A. To he or anybody else out there that may want
10	Q. And that was before you made your call for the	10 it.
11	reserve officers?	11 Q. What did he say?
12	A. Yeah. It would have been.	12 A. He was not interested, but he'll go knock on
13	Q. Now, what -- where did you call? What did you	13 doors and see if he can locate somebody that was
14	say? Who did you speak with?	14 I believe is what the conversation was.
15	A. I could not tell you who I spoke with, but the	15 Q. Did you do anything further to find someone to
16	call was made to the general phone at the Loran	16 go over and do that suicide watch at the
17	barracks' housing. It's a pay phone.	17 hospital?
18	Q. Is that like a dormitory?	18 A. I don't believe that I did.
19	A. Yes.	19 Q. Now, as I understand it, the reserve officers
20	Q. Do all the reserve officers live there?	20 can be called on to duty under their contracts
21	A. Two-thirds of them, yes.	21 pretty much at any time; is that correct?
22	Q. Where do the rest live?	22 A. Yes.
23	A. They would either have a family connection on	23 Q. So if you had chosen to, you could have gone
24	the island or friends and made prior	24 down through the list of reserve officers, found

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1 a woman officer, and said -- if one was there,  
 2 and said, "Sorry to interrupt your evening. I  
 3 need somebody over to the hospital," and you've  
 4 got to go?

5 A. That would not have occurred.

6 Q. How come?

7 A. Because this was a third-party detail request  
 8 and not a custody suicide watch, whereas  
 9 involving us it would be a requirement that we  
 10 have somebody with that person via in our  
 11 satellite area or if that person is in the  
 12 medical facility, they would be there, as well.  
 13 It's entirely different.

14 Q. But if it were a PC, it was within your power to  
 15 call up the reserve officers, find a female, and  
 16 order them on to duty to do the assignment;  
 17 would that be fair to say?

18 A. It is somewhat fair. In that instance, in the  
 19 instance you just described, it would be a shift  
 20 officer that would be involved with it. We  
 21 would attempt to locate a female officer to take  
 22 over for this officer, and if that could not be  
 23 achieved because it is our custody, it would go  
 24 with our regular shift, our manning -- our

1 differently. I thought I saw somewhere in the  
 2 agreement of these reserve officers to work that  
 3 they have to be available to get on.

4 I don't think there's a need to  
 5 mark this document, but on the -- when they  
 6 apply to work, as Mr. Samson did here, in their  
 7 employment application it says that, quote, "I  
 8 understand also that this department has  
 9 established day, night, and weekend tours for  
 10 which I must be available as required," end  
 11 quote.

12 Is it your understanding that if  
 13 you decided a female officer was required for  
 14 something within the responsibility of the  
 15 police department, you could bring a reserve  
 16 officer on to duty?

17 A. Well, a female officer would never be required  
 18 to be involved in an incident. It would be  
 19 encouraged if it was a woman that the incident  
 20 is about, but there's no direct requirement that  
 21 a woman has to be -- a woman officer has to be  
 22 the one in contact with the incident involving  
 23 another woman.

24 Q. Well, my question, I think, was a little

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1 regular shift Manning full-time officer. It  
 2 would then go to the next shift, if there was an  
 3 officer available from that shift.

4 If our minimum Manning staffing,  
 5 say, wasn't going to be affected by that regular  
 6 officer watching that individual at the medical  
 7 facility that's in protective custody, it would  
 8 then carry over to the reserve status in that  
 9 instance, in the protective custody suicide  
 10 watch instance.

11 Q. Let's -- if it were a protective custody at the  
 12 hospital and you wanted to have a female  
 13 watching the detained person, did you back in  
 14 2002 have the power to order a reserve officer  
 15 who was not then on duty back on to duty so that  
 16 you could have a woman over there?

17 A. Well, we could not order the woman officer to  
 18 come in and watch a suicide-risk person at the  
 19 hospital. We would attempt that, as we've  
 20 discussed earlier, and certainly nobody would be  
 21 ordered for the third-party detail. It would  
 22 just be -- it would be put out as a request,  
 23 "Can anybody take this watch?"

24 Q. But if it's a PC -- well, let me state it

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1 different. If you, as the dispatcher that  
 2 night, had needed to have a female officer on  
 3 duty and there wasn't one, could you call the  
 4 barracks where the reserve officers are and say  
 5 to a female officer, "You have to come on duty  
 6 now"?

7 A. No.

8 Q. Why is that not the case?

9 A. It is encouraged that a woman have contact with  
 10 a woman within this department, period, but it's  
 11 not required. If that woman refuses or cannot  
 12 or is not available, then it would go to a  
 13 regular officer, a male officer.

14 Q. But can you call --

15 A. And the reason for that is if we didn't have a  
 16 woman officer, period, available, maybe not even  
 17 a woman -- if an incident involved a woman, and  
 18 a woman officer would be the ideal party to have  
 19 with this woman party, and there was not one  
 20 available, be it sick time, comp time, vacation  
 21 time or what have you, then it would be a male  
 22 officer that would be involved in that incident,  
 23 and the reason for that is if you didn't have a  
 24 woman, you couldn't use a man, then the party in

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UNITED STATES DISTRICT COURT FOR  
THE DISTRICT OF MASSACHUSETTS  
05-11547-RWZ

LAUREN VARALLO,  
Plaintiff,

v

TOWN OF NANTUCKET - POLICE  
DEPARTMENT and JAMES SAMSON,  
Defendant.

Deposition of CHRISTINE E. LADNER,  
taken on behalf of the Plaintiff, pursuant to  
Notice under the Federal Rules of Civil  
Procedure, before Janice A. Maggioli, RPR, RMR,  
CRR, and Notary Public in and for the  
Commonwealth of Massachusetts, at the Nantucket  
Police Department, 20 South Water Street,  
Nantucket, Massachusetts, on January 4, 2007,  
commencing at 11:32 a.m.

MAGGIOLI REPORTING SERVICES, INC.  
48 Watson Street  
Braintree, Massachusetts 02184  
(781) 355-2636

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On behalf of the Plaintiff.

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EXHIBIT 5

1 STIPULATION  
2 It is agreed by and between counsel  
3 for the respective parties that the reading  
4 and signing of the deposition will not be  
5 waived. All objections, except as to the form  
6 of the question, and motions to strike will be  
7 reserved until the time of trial.  
8 (Exhibit 3, Deposition Notice,  
9 marked for identification.)  
10 MR. BOYLE: You can swear her in,  
11 please.

12  
13 CHRISTINE E. LADNER,  
14 having been satisfactorily  
15 identified and duly sworn by the  
16 Notary Public, was examined and  
17 testified as follows:

18 MR. BOYLE: Why don't we reserve  
19 all objections, except as to the form of the  
20 question. We'll reserve motions to strike.  
21 We'll have the witness sign under the pains and  
22 penalties of perjury. We'll treat the  
23 transcript as though signed after the lapse of  
24 30 days after you receive the copy of the

9

- 1 him?
- 2 A. No, I did not.
- 3 Q. Did you get to know him in the summer of '01?
- 4 A. Yeah, I guess. I mean, I think so. We have so
- 5 many summer specials. I know who they are, but
- 6 some of them I don't have direct contact with
- 7 because they work certain shifts, and me
- 8 personally, being on the midnight shift, I
- 9 didn't really have any direct contact with
- 10 anyone because their shifts would stop either at
- 11 midnight or 2 a.m. or 3 a.m.
- 12 Q. Were there specials on duty all night?
- 13 A. No.
- 14 Q. It stopped at 3 a.m.?
- 15 A. Correct.
- 16 Q. And then from 3 a.m. until what, 7 a.m. regular
- 17 officers?
- 18 A. Until 8.
- 19 Q. 3 until 8?
- 20 A. Yes. Our shifts go from 11:45 to 8:15.
- 21 Q. And so it was the practice back then that the
- 22 last shift involving the specials or the summer
- 23 officers would end at 3 a.m.?
- 24 A. Correct.

- 1 female officer on duty, then the female will,
- 2 but if there's no female available, then two
- 3 males -- one male will search her where the
- 4 other male observes.
- 5 Q. But if the shift includes a female officer, the
- 6 practice is to have that female officer search
- 7 that female detainee?
- 8 A. Yes, if she's not tied up, if she's available.
- 9 Q. Are you familiar with one-on-one watches?
- 10 A. I'm familiar with them, yes.
- 11 Q. And what is your understanding or definition of
- 12 a one-on-one watch?
- 13 A. An officer watching a detainee or a prisoner.
- 14 Q. As in a suicide watch?
- 15 A. Okay.
- 16 Q. Would that be one example of --
- 17 A. One on one?
- 18 Q. Yes.
- 19 A. Yes.
- 20 Q. Now, does the department have any practice or
- 21 policy with respect to whether a man or a woman
- 22 should conduct a one-on-one watch of a female
- 23 detainee?
- 24 A. Not to my recollection.

10

- 1 Q. And then they would come back on duty at 8 a.m.?
- 2 A. Yes.
- 3 Q. And that was true in the high summer, as well?
- 4 A. Uh-huh.
- 5 Q. Now, are you familiar with policies and
- 6 practices within the department in regards to
- 7 searching and guarding female detainees?
- 8 A. Uh-huh.
- 9 Q. That doesn't come out unless you say yes.
- 10 A. Uh-huh --
- 11 A. Yes.
- 12 Q. She can't take down the uh-huh. Would you
- 13 describe those for me, please?
- 14 A. I don't really understand your question.
- 15 Q. Let me try it again. In one of the depositions
- 16 we had earlier today it was stated that searches
- 17 of female detainees is done ordinarily by female
- 18 officers, correct?
- 19 A. No.
- 20 Q. That's not a policy of the department?
- 21 A. No.
- 22 Q. So the department doesn't have any policy on
- 23 which gender person should --
- 24 A. If we have a female detainee and we have a

- 1 Q. Does the department have any practice or policy
- 2 with respect to opening the cell of a female
- 3 detainee, whether or not it should be done by a
- 4 female officer --
- 5 A. No.
- 6 Q. -- or a male officer?
- 7 A. Either/or.
- 8 Q. Does the department have any policy or procedure
- 9 as to whether or not the cell door of a female
- 10 detainee should be opened by two officers as
- 11 opposed to one?
- 12 A. No, it does not.
- 13 Q. So if you have a female incarcerated at
- 14 headquarters, it's acceptable within department
- 15 practice for a male officer to open the cell
- 16 door?
- 17 A. Correct.
- 18 Q. Even if there's not a second male officer
- 19 present?
- 20 A. There's no policy like that to my knowledge.
- 21 Q. Any practice on that?
- 22 A. What do you mean any "practice"?
- 23 Q. Well, apart from a written policy in a booklet,
- 24 any custom or traditional practice that you

12

13

15

- 1 follow on that?
- 2 A. I'm not sure I understand your question.
- 3 Q. I'm just -- I'm trying to define those
- 4 situations in which you take special precautions
- 5 if the detainee is a woman, and are there
- 6 special situations in which the department takes
- 7 special precautions if the detainee is a woman?
- 8 A. Any special precautions? Everything is
- 9 monitored in the dispatch area on the screen if
- 10 there's an officer in the female cell area where
- 11 somebody can observe at the same time.
- 12 Q. Does the hospital sometimes ask for officers to
- 13 go out and watch suicidal patients at the
- 14 hospital?
- 15 A. Yes.
- 16 Q. Have you ever done that?
- 17 A. In my career?
- 18 Q. Well, your career at Nantucket.
- 19 A. Yeah, I'm sure I have.
- 20 Q. Do you have any memory of having done that?
- 21 A. No.
- 22 Q. Would that have been in connection with the
- 23 protective custody?
- 24 A. I don't understand.

- 1 Q. When you say "a few," is that in the course of
- 2 your, I guess, ten years with the department?
- 3 A. Yeah, we've been up there a few times.
- 4 Q. On details?
- 5 A. Yes.
- 6 Q. To sit and watch patients?
- 7 A. Yes.
- 8 Q. Now, is -- and you, yourself, have done that on
- 9 a few occasions?
- 10 A. A few occasions, I have, yes.
- 11 Q. And on those occasions do you get extra pay?
- 12 A. Yes, it's a detail, correct?
- 13 Q. Well, from your testimony I take it it was a
- 14 detail.
- 15 A. If it is a detail, yes, we get extra pay. You
- 16 get detail rate. We have a set rate for
- 17 details.
- 18 Q. If you are up there on a PC, it's not extra pay?
- 19 A. No.
- 20 Q. Now, is it preferable, in your opinion, if there
- 21 is a woman -- a young woman patient to be
- 22 watched at the hospital who is on a suicide
- 23 watch and it's a one-on-one watch, is it
- 24 preferable to have a woman officer there?

14

16

- 1 Q. You understand what a protective custody is?
- 2 A. Yes, I understand protective custody.
- 3 Q. Have you --
- 4 A. Are you saying if someone is in our custody and
- 5 we bring them to the hospital?
- 6 Q. I guess my question was, have you ever watched a
- 7 patient at the hospital when that patient was in
- 8 protective custody?
- 9 A. I'm sure I have. I can't specify any certain
- 10 incident, but there have been numerous times
- 11 that I've gone to the hospital with someone
- 12 that's been in our custody.
- 13 Q. And did you simply deliver them to the hospital
- 14 or did you stay and watch them at the hospital?
- 15 A. And they were in my protective custody?
- 16 Q. Yes.
- 17 A. No, we stayed or I stayed.
- 18 Q. Have you ever heard of there being a detail out
- 19 at the hospital to watch a potentially suicidal
- 20 patient?
- 21 A. Yes.
- 22 Q. And how many times are you aware that that has
- 23 happened?
- 24 A. A few.

- 1 MR. LOUISON: Objection to the
- 2 form.
- 3 A. No.
- 4 MR. LOUISON: You can answer.
- 5 THE WITNESS: Sorry.
- 6 A. No.
- 7 Q. Does the -- so, as far as you're concerned, it's
- 8 acceptable to have a 20-year-old or a
- 9 21-year-old male officer watching a 20- or
- 10 21-year-old suicide risk one on one at the
- 11 hospital?
- 12 A. Yes.
- 13 Q. Now, does the department have any policy at all
- 14 on preferring to put female officers in that
- 15 situation rather than male?
- 16 A. Not to my knowledge.
- 17 Q. So, in your understanding if the call came in
- 18 that there was a detail to be filled at the
- 19 hospital, it was a 20- or 21-year-old female who
- 20 was a suicide risk, it wouldn't matter to you at
- 21 all whether or not a male or a female went up
- 22 there to fill that assignment?
- 23 MR. LOUISON: Objection to the
- 24 form.

17

- 1 A. Correct.  
 2 Q. And you wouldn't make any efforts to try to find  
 3 an available female as opposed to a male to fill  
 4 that particular assignment, correct?  
 5 A. I would try to find a person, a police officer  
 6 to fill that.  
 7 Q. As opposed to?  
 8 A. What I would do is I would go down the full-time  
 9 police officer list first, and as soon as that  
 10 was exhausted, I would move on to my next  
 11 opportunity, if I had a next opportunity.  
 12 Q. But you would completely disregard gender in  
 13 that situation?  
 14 A. I would send a certified police officer, whoever  
 15 it was, who was capable of doing a one on one.  
 16 Q. But if the first available on the list was a  
 17 man, would you send a man?  
 18 A. Seniority, yes.  
 19 Q. Pure seniority?  
 20 A. I would send a male or whoever is available.  
 21 Q. And you would make no effort to try to find a  
 22 female officer to guard that -- not guard, but  
 23 to watch that female patient, correct?  
 24 A. I'm sorry, I didn't understand your question.

19

- 1 A. In my opinion?  
 2 Q. Yes.  
 3 A. No. They are asking for a one on one. A one on  
 4 one.  
 5 Q. Okay.  
 6 A. No specifics of anything.  
 7 Q. Okay.  
 8 A. So whoever I came across first who was available  
 9 would go.  
 10 Q. So if the first one on the detail list was a  
 11 man, you would send a man?  
 12 A. Yes, I would.  
 13 Q. I don't know if I heard correctly. Did I hear  
 14 you say a little while ago that your preference  
 15 would be a female?  
 16 A. I would send the first person that was  
 17 available, which would probably in that case if  
 18 it was a man, it would be a man.  
 19 Q. If the first available person was a man --  
 20 A. Right.  
 21 Q. -- he would get the assignment? Now, are there  
 22 any standards or procedures for details, any  
 23 written standards or procedures for details?  
 24 A. No, there's none.

18

- 1 Q. Sure. Given the fact that it's a 20- or  
 2 21-year-old female in a bed at a hospital in the  
 3 middle of the night one on one, you would not  
 4 because of that to fill the detail try to find a  
 5 woman --  
 6 MR. LOUISON: Objection.  
 7 Q. -- is that correct? -- -- --  
 8 MR. LOUISON: You can answer, if  
 9 you can.  
 10 THE WITNESS: Okay.  
 11 A. I would -- if I had a female available, I would  
 12 send her.  
 13 Q. So your preference would be to send a female?  
 14 A. If I had a female available, yes.  
 15 Q. And why would it be your preference to send a  
 16 female? Just because it's a woman being  
 17 watched, I assume?  
 18 A. I assume, yes.  
 19 Q. And, in your opinion, is it more appropriate for  
 20 a person in that situation, a suicide risk, 20-  
 21 or 21-year-old female in a bed in the middle of  
 22 the night, is it more appropriate, in your  
 23 opinion, to have that person watched by a  
 24 female?

20

- 1 Q. Is there a detail list of some kind?  
 2 A. No.  
 3 Q. How do details get passed out, by seniority?  
 4 A. We have a detail officer. He handles all the  
 5 details, whether he has a callback list or -- it  
 6 depends on what time the detail comes in, if  
 7 that officer is working the detail officer is  
 8 working, he usually handles the details.  
 9 Q. Does he work the midnight shift, he or she, the  
 10 detail officer?  
 11 A. Right now?  
 12 Q. Back in '02.  
 13 A. I don't recall if he worked it or not. We have  
 14 a shift bid, and it changes every four months,  
 15 so people rotate all over the schedules.  
 16 Sometimes they like to work days. Sometimes  
 17 they like to work nights. Summertime they like  
 18 to work eves. It all depends.  
 19 Q. Do you have a recollection of the events of July  
 20 22, I think it is -- let me get it exactly --  
 21 July 22, 2002, involving Ms. Varallo and Mr.  
 22 Samson?  
 23 A. Yes.  
 24 Q. And do you have a recollection, apart from the

VARALLO V TOWN OF NANTUCKET

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written documents and records that have been produced, in other words, as you sit here today, can you remember that night?

A. I can vaguely remember it.

Q. Okay.

A. I remember some parts of it, yes.

Q. And what was your first knowledge that the hospital was requesting an individual to come out?

A. I believe that it was -- it came in on the evening shift when they had requested that detail.

Q. And were you on duty on the evening shift?

A. I believe I was. I worked a double that day.

Q. So by "evening" that's before midnight?

A. Right. So I started work at 3:30.

Q. On the 21st?

A. On the 21st.

Q. Yes.

A. And I finished work after 8 on the 22nd.

Q. And so you were on duty when the first call came in from the hospital?

A. Yes.

Q. And did you take that call or do you have a

Q. And was it your expectation that he would go down the list in order of seniority?

A. However he could do it to get somebody.

Q. Did you give him -- you knew that it was a female patient at the hospital?

A. I did not know. He just told me that somebody had called in for a one on one.

Q. Did you learn at or about the time of the second call that it was a female patient?

A. Yes, I did.

Q. So, do you know whether or not he went down the list of regular officers?

A. He told me that nobody wanted the detail.

Q. And did you take any other steps to fulfill that request by the hospital?

A. We continued with trying to find a summer special that was willing to take that detail.

Q. What did you do in that regard?

A. I don't recall. I know we tried, whether it was myself or Officer Welch, calling to the Loran barracks where all the summer specials live and putting out a call if anybody wanted the detail. I know it was late. Most of the specials were asleep. I did attempt by the radio to contact a

22

memory of that call?

A. I do not recall. I believe Officer Welch did.

Q. That's his memory, as well, by the way.

A. Okay.

Q. And as the shift supervisor, would that call have come to your attention?

A. Yes.

Q. And so Officer Welch would have told you that the hospital is looking for somebody?

A. Yes.

Q. What, if anything -- before the midnight shift started, what, if anything, did you do to help fulfill that request from the hospital?

A. I believe I asked Officer Welch to go down the list to see if he could get an officer for that detail.

Q. And by "down the list" do you mean down the seniority detail list?

A. The full-time list.

Q. The full-time list?

A. Correct.

Q. And does that full-time list include off-duty, as well as on-duty officers?

A. Yes, it does.

24

couple of officers that were getting off later in the night if they wanted to do the detail, as well, and at that time nobody wanted it.

Q. So you personally made some of these contacts?

A. Uh-huh, I did.

Q. And was this before the second call from the hospital?

A. I don't recall.

Q. If you could list off for me the people or the -- well, what is your memory of about who you called?

A. I don't even know. It was four and a half years ago. Like I said, summer specials change every year. I don't know if I specifically called someone or not. I know over the radio people that were already on bike patrol or foot patrol, I was radioing to -- I don't recall back then who was working for me at the time.

Q. Michele Caron, do you know who Michele Caron is, C-A-R-O-N?

A. Was she a summer special?

Q. I think she was.

A. Probably -- like I said, people come in and out the door every year. I've been here for 11

	25		27
1	years, so the name rings a bell.	1	A. No, I don't. I do not recall.
2	Q. So the calls that you made, were they mostly by	2	Q. And did Jill -- at the time of the second call
3	radio as opposed to cellphone or telephone?	3	you knew it was a woman patient at the hospital?
4	A. Probably both, probably all three from the	4	A. Yes.
5	station, have them call the station via the	5	Q. And what happened next after the second call
6	radio.	6	when you told Jill that you didn't have anybody
7	Q. Were you looking for women in particular?	7	available?
8	A. I probably did ask a couple of women if they	8	A. In regards to?
9	were available.	9	Q. To Mr. Samson and him getting the assignment.
10	Q. Do you remember which ones?	10	A. Okay. I believe Officer Samson had come into
11	A. No, I don't.	11	the station because he heard me over the radio
12	Q. And did you happen to speak with them because	12	trying to fill the detail and informing me that
13	they were women; in other words, in this search	13	he was available to go up there after he
14	for someone to respond to the hospital, were you	14	completed his detail that he was already on.
15	looking for a woman in particular?	15	Q. And when you made your various calls to try to
16	A. No, I was looking for a police officer to	16	find someone, did you limit it to full-time
17	fulfill that detail.	17	police officers or did you call out to everybody
18	Q. And you just happened to call women and men?	18	available?
19	A. Correct. When we call out to the barracks at	19	A. I first called out to full-time police officers.
20	that time that year, we make one phone call, and	20	Q. Okay.
21	that person that answers the call goes around	21	A. And then --
22	and asks somebody, if they are awake, if they	22	Q. Expanded?
23	want the detail, whether it's male or female.	23	A. I exhausted that list or Officer Welch exhausted
24	Q. So you had absolutely no preference at that time	24	that list and informed me we didn't have one,
	26		28
1	to finding --	1	and then we called the Loran to see if anybody
2	A. I just wanted to find someone for them, to be	2	was available because everybody at the Loran
3	honest with you, because they made two calls,	3	were off duty and would be immediately
4	and I was giving every effort I could to find	4	available.
5	somebody for them.	5	Q. And do you have any way of contacting the summer
6	Q. On the second call, did you actually speak with	6	specials other than calling the pay phone at the
7	the person at the hospital?	7	dormitory?
8	A. Yes. I told her that I was unable to find	8	A. Over the radio.
9	anybody at this time, but if they needed us at	9	Q. But if they are off duty, let's say the summer
10	any point, that we would be there right away.	10	specials that are off duty, do you have a way of
11	Q. Was that the second call or the first call?	11	reaching them?
12	A. That was the second call. I believe I spoke to	12	A. I believe we have a list of their cellphone
13	Jill.	13	numbers on the back of our call-back list.
14	Q. Okay.	14	Q. Are they requested to leave with you their
15	A. I think that's what her name was.	15	cellphone numbers when they initially sign up
16	Q. And on the second call, you told her --	16	for duty?
17	A. I didn't have anybody available at the time.	17	A. If they wish. Back then a lot of people didn't
18	Q. Did you ever say anything to Jill to the effect	18	have cellphones. It was just basically the
19	that I don't have any women available?	19	phone at the Loran was the main way of
20	A. No, I said I don't have anyone.	20	contacting them.
21	Q. So there was no specific statement to her like,	21	Q. When they are off duty, do any of them carry
22	I've been unable to find a woman for this	22	pgers?
23	assignment? You don't remember saying anything	23	A. No.
24	like that?	24	Q. And so Mr. Samson responded in person or by

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- 1 radio that he --
- 2 A. In person. He came into the station and said  
3 when he was done with his detail at 2 o'clock,  
4 which he was working over at the yacht club,  
5 that he would be willing to do that next detail  
6 at the hospital.
- 7 Q. And does -- how does he perform that? Does he  
8 take his own car up there? Does he take a  
9 police car?
- 10 A. No, he takes his own car or if he doesn't have a  
11 car, which some specials don't, we give them a  
12 ride up.
- 13 Q. Now, is there -- do you have the ability to call  
14 a special officer back on to duty to give them  
15 an assignment?
- 16 A. You mean order them?
- 17 Q. Right.
- 18 A. Are you just asking me if I have the ability to  
19 do that?
- 20 Q. Yes. Is it within your powers as a shift  
21 supervisor --
- 22 A. It depends upon the circumstances, the  
23 situation.
- 24 Q. In what way?

31

- 1 hospital?
- 2 A. I didn't feel as though it was inappropriate,  
3 though.
- 4 Q. I know. Obviously because you sent Samson up  
5 there, but my point is this --
- 6 A. If I didn't have anyone available and was not  
7 willing to take the detail, I wouldn't send  
8 anyone.
- 9 Q. So you had that option?
- 10 A. Uh-huh, and if the hospital did call us and  
11 requested our assistance, we would immediately  
12 respond.
- 13 Q. Because then it becomes a police matter if there  
14 were a disturbance?
- 15 A. Correct.
- 16 Q. Or out-of-control person at the hospital?
- 17 A. Yes, and we would assist.
- 18 Q. Now, from time to time people are put into  
19 protective custody and brought to the hospital;  
20 are they not?
- 21 A. Yes.
- 22 Q. And how often does something like that happen?
- 23 A. A few times. I'm not going to say all the time.  
24 It all depends. If we have someone in

30

- 1 A. It depends upon the situation, if it's an  
2 emergency or if I need them right away or it  
3 depends upon the circumstance, if I feel as  
4 though I need to call them in for something.
- 5 Q. Was this request from the hospital, did you  
6 consider it to be optional on the part of the  
7 police department; in other words, if you could  
8 accommodate it, fine?
- 9 A. Yes.
- 10 Q. But it was optional from the police department's  
11 standpoint?
- 12 A. Yes.
- 13 Q. There was no -- you didn't sense that there was  
14 any requirement --
- 15 A. No.
- 16 Q. -- that you provide a police officer?
- 17 A. Correct. If she got out of hand or whatever, my  
18 shift would go up there and address the  
19 situation, but for a third-party detail when  
20 nobody wants it --
- 21 Q. So you the ability -- as a shift supervisor, if  
22 you decided that it was inappropriate for a male  
23 to take this assignment, for example, you could  
24 have simply declined the detail from the

32

- 1 protective custody and they are complaining of  
2 some sort of an injury or they can't breathe  
3 because they are hyperventilating from the small  
4 space in the cell and we need to bring them up  
5 to the hospital, we'll call in the fire  
6 department, and they'll bring them up there, and  
7 we send a police officer with them.
- 8 Q. And in a protective-custody situation as opposed  
9 to a detail, does the gender of the detained  
10 person and the gender of the officer matter?
- 11 A. No.
- 12 Q. And that's town policy? There's no policy that  
13 it matters?
- 14 A. No. A police officer is a police officer.
- 15 Q. Now, did you learn that something had gone amiss  
16 at the hospital at some point?
- 17 A. Yes.
- 18 Q. Tell me what you remember about that.
- 19 A. I got a phone call from Officer Samson about  
20 7:30, quarter of 8. He was inquiring when his  
21 relief was going to be there because he was  
22 there until 8 o'clock. I told him as soon as  
23 the day shift got on duty, I would try to send  
24 somebody up there to relieve him.

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		33			35
1	Q.	From the regular shift duty or from -- as a	1	Q.	I take it that's the next shift's supervisor?
2		detail?	2	A.	No, it would have been the administration's
3	A.	Well, it would have been as a detail.	3		supervisor, which I believe was Lieutenant -- he
4	Q.	What else happened?	4		was a lieutenant at the time, Lieutenant Gibson,
5	A.	And then he called back again requesting my	5		who is now a deputy chief. I believe I told
6		presence. They needed a shift supervisor, and,	6		him.
7		like I said, I had been on work since 3:30 the	7	Q.	When you were up at the hospital, did you speak
8		afternoon prior, so I was cleaning up my shift	8		with Lauren?
9		and preparing to go home, and he wouldn't quite	9	A.	No, I did not.
10		tell me what was going on. I kept asking him,	10	Q.	You just spoke with --
11		"Well, why do I have to come up there? What's	11	A.	The head nurse, Nancy Luchini.
12		the problem?"	12	Q.	What happened next?
13		And he said, "Well, she's	13	A.	I informed Lieutenant Gibson of what had
14		accusing me of messing up her bed sheets."	14		occurred, and I did a report. I had Officer
15		I said, "Okay," and I asked him	15		Samson do a report. I handed it over to
16		if he did it.	16		Lieutenant Gibson, and that was the end of my
17		And he said, "No."	17		investigation.
18		I said, "Well, why do I have to	18	Q.	Did you take -- did you debrief Samson? Did he
19		come up there? I don't understand. You have	19		tell you what had happened?
20		been up there with the nurses. You've been up	20	A.	Yes. Well, I had actually asked him what had
21		there all night. Why is there a problem all of	21		happened between the hours of 2 and quarter of
22		a sudden?"	22		8.
23		"Well, the head nurse needs to	23	Q.	Okay.
24		speak to you in regards to what I just told	24	A.	And he told me he sat outside the room the
		34			36
1		you." So I was pretty frustrated, to be honest	1		majority of the time. He got up to get some
2		with you. I was tired, so off I went. I didn't	2		coffee throughout the night. He had
3		want to go.	3		conversations with nurses at the nurses' station
4	Q.	Okay.	4		throughout the night, and that he didn't do
5	A.	I was tired. I was really tired.	5		anything.
6	Q.	Okay. Not pleased?	6	Q.	Did he tell you where he was at the time that
7	A.	Not pleased, no, not at all.	7		Lauren made her complaint at the nurses'
8	Q.	What did you find when you got up there?	8		station?
9	A.	Let's see. Who did I meet with? I met with	9	A.	You know, I don't recall. I don't recall where
10		Nancy Luchini. We sat in the visitors' center	10		he was.
11		there, the little office there that was near the	11	Q.	Now, on an assignment like that, watching -- you
12		nurses' station on the second floor, and she	12		understood that this patient was a suicide risk,
13		said we had a problem, and she told me that	13		correct?
14		the -- what's her name? Laura, had accused	14	A.	Correct.
15		Officer Samson of messing up her bed sheets. I	15	Q.	And is the officer supposed to be with the
16		said okay.	16		patient 100 percent of the time?
17		And we talked a little bit more.	17	A.	I don't know.
18		She said -- she told me about her state, her	18	Q.	How about you've got a suicide watch in the
19		state of mind when she had come in, that she had	19		lockup, is that a 100 percent full-time one on
20		been drinking, and I said okay, and I talked to	20		one that is expected?
21		her a little bit more, and then Officer Samson	21	A.	If we have the officer available. If we don't,
22		and I left, and we came back to the station, and	22		the dispatcher monitors him from the screen.
23		then I advised my supervisor of what had	23	Q.	But Officer -- or Mr. Samson that night was --
24		occurred.	24		if his assignment was to be at the hospital and

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1 watch a suicide risk, is he supposed to be --  
 2 have her in his eyesight 100 percent of the  
 3 time?  
 4 A. I told Officer Samson before he went to the  
 5 detail to heck in with the nurses at the nurses'  
 6 station and to do exactly what they told him to  
 7 do.  
 8 Q. But what is your custom and practice with a  
 9 potential suicide risk, is it 100 percent  
 10 observation? Would you ever leave and get  
 11 yourself a cup of coffee?  
 12 A. I would ask somebody to relieve me if I had to  
 13 go get a cup of coffee or go to the bathroom.  
 14 Q. So you would make certain that there was 100  
 15 percent coverage even if you had to leave for a  
 16 few minutes for some necessity?  
 17 A. If it were me?  
 18 Q. Right.  
 19 A. If it were me.  
 20 Q. The answer is yes?  
 21 A. I would, yes, if it were me. All officers have  
 22 different ways of doing certain things and  
 23 approaching certain situations.  
 24 Q. Isn't it correct that there's a right way and a

37 1 Q. Or that's what he told you he did?  
 2 A. Yes, that's what he told me he did.  
 3 Q. And you wrote up a report. Did you tell Samson  
 4 to write up a report?  
 5 A. Yes, I did.  
 6 Q. Did you have anything further to do with this  
 7 matter?  
 8 A. No.  
 9 Q. Were you interviewed by the State Police?  
 10 A. No.  
 11 Q. Other than your report, did you give anyone a  
 12 statement about this?  
 13 A. No.  
 14 Q. Did you communicate in any way by e-mail, by  
 15 telephone, any way with the State Police about  
 16 this?  
 17 A. No.  
 18 Q. So the last thing you had to do with this event  
 19 was the morning of the 22nd?  
 20 A. Correct.  
 21 Q. Are you familiar with another event allegedly  
 22 involving Officer Samson of entering a dormitory  
 23 room of a Michele Caron?  
 24 A. I heard about it.

38 1 wrong way to conduct a suicide watch; in other  
 2 words, if somebody is being watched as a suicide  
 3 risk, isn't it a fact that the watch ought to be  
 4 100 percent of the time?  
 5 A. I can't answer that because I was not there that  
 6 night, and I don't know what he was instructed  
 7 on doing from the nurses, so I can't answer that  
 8 question.  
 9 Q. But your practice would be as described, 100  
 10 percent of the time, and if you had to leave,  
 11 you would get backup?  
 12 A. That would be me, not my other officers. That  
 13 would be me.  
 14 Q. Are there any policies or procedures for  
 15 one-on-one watches within the department?  
 16 A. No, not that I'm aware of.  
 17 Q. So you came -- did Officer Samson tell you  
 18 anything else about what had happened that  
 19 night?  
 20 A. No.  
 21 Q. Did he say he left the room from time to time to  
 22 get coffee?  
 23 A. He said he was there the majority of the time,  
 24 and he did go get a cup of coffee, yes.

40 1 Q. What did you hear about it?  
 2 A. That he had entered the room. I work midnights.  
 3 They don't really tell me much. At the time I  
 4 worked midnights.  
 5 Q. Okay. And did Ms. Caron make a complaint about  
 6 it?  
 7 A. I don't know, to be honest with you. I don't  
 8 know. I did hear some scuttlebutt about it, but  
 9 I don't know. If she made a complaint or if she  
 10 filed a complaint, to be honest, but it didn't  
 11 really pique my curiosity.  
 12 Q. You understand that it is alleged that Officer  
 13 Samson inappropriately touched Ms. Varallo,  
 14 correct?  
 15 A. Correct.  
 16 Q. And you are further aware, I would expect, that  
 17 Mr. Samson pled guilty to having done so?  
 18 A. Yes.  
 19 Q. You would have, of course, no way of knowing  
 20 whether or not that, in fact, took place; is  
 21 that correct?  
 22 A. Correct, I don't know.  
 23 Q. You certainly didn't witness anything that would  
 24 tell you whether or not it actually took place,

	41		43
1      did you?		1      Q. And where does it stop? At the bottom of page	
2      A. No, I did not.		2      3?	
3      Q. So, in terms of determining whether or not that		3      A. Yeah, about three-quarters of the way down.	
4      event happened, you would have to really rely		4      Q. If I can borrow that back from you.	
5      upon the testimony of Ms. Varallo and Mr.		5      (Pause).	
6      Samson, correct?		6      Q. Now, this supplemental by you, it talks a little	
7      A. Correct.		7      bit about the events leading up to Mr. Samson	
8      Q. And you don't know anyone who witnessed the		8      being dispatched to the hospital, and it says	
9      event happening?		9      that at about 2330 hours, I guess that would be	
10     A. No, I don't.		10     on July 21, the hospital called the station	
11     Q. Let me pull out your report, if I can.		11     requesting an officer for a detail to watch a	
12     (Pause).		12     psych patient until 8 a.m. Monday. Officer	
13     Q. Did the police department take pictures up at		13     Welch attempted to fill the detail, but no one	
14     the hospital?		14     wanted it. At approximately 0100 hours, Jill	
15     A. I would assume so.		15     Kennedy from the hospital called back and once	
16     Q. Did you have anything to do with that?		16     again requested a detail officer.	
17     A. No, I did not. That would be the detectives		17     Did you have that conversation	
18     that would do that.		18     with her? Is that the time you spoke with her?	
19     Q. That investigated it?		19     A. At 1 o'clock?	
20     A. Correct.		20     Q. Yes.	
21     Q. I've got a four-page document, and it looks to		21     A. I believe so.	
22     be computer generated, but I don't know. Can		22     Q. It goes on to say that Jill was told that we did	
23     you tell me what that is?		23     not have a female officer available. Now, that	
24     A. It's an incident report.		24     is in your report, and that's a statement that	
	42		44
1      Q. And is that what you referred to when you said		1      you made to Jill Kennedy?	
2      that you and Mr. Samson prepared reports?		2      A. No, I told her at that time we didn't have	
3      A. Correct.		3      anyone available.	
4                    MR. BOYLE: Can you mark that as		4      Q. But your report says that you told her that you	
5      Exhibit 4, please?		5      didn't have a female officer available.	
6                    MR. LOUISON: Can I just clarify		6      A. I told her we didn't have anyone available at 1	
7      something for the record? She identified it as		7      o'clock, and then when Officer Samson came in	
8      her report, but it's a sequential. There are		8      and stated that he was available, Dispatcher	
9      others that are not hers.		9      Gale called Jill back and said now we do have	
10                  MR. BOYLE: Sure. It's not		10     someone available, and it's not a female, but	
11      her -- all her authorship. I don't mean to		11     this is who we have.	
12      suggest that.		12                  Q. Just so I understand, you personally typed this	
13                  (Exhibit 4, Incident Report,		13      report up?	
14                  marked for identification.)		14      A. Yes.	
15      Q. And can you tell me what parts of this report		15                  Q. And you did type the words "Jill Kennedy from	
16      you generated?		16      the hospital called back" -- let me start over.	
17      A. I generated the supplemental report.		17      Quote, "At approximately 1011 hours, Jill	
18      Q. And that begins halfway down page 2?		18      Kennedy from the hospital called back and once	
19      A. Correct.		19      again requested a detail officer. Jill was told	
20      Q. Did you generate anything that preceded that?		20      that we did not have a female officer available,	
21      A. No.		21      but that officer James Samson volunteered for	
22      Q. And does your report continue on to page 3 or		22      the detail," end quote.	
23      your portion of the report?		23      A. Uh-huh.	
24      A. Yes, it does.		24      Q. And that's what you told Jill. What I just	

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- 1 quoted from your report is what you told Jill?
- 2 A. No. The way I wrote my report was afterwards,
- 3 and at 1 o'clock when Jill called, I told her we
- 4 didn't have anyone available, and then
- 5 approximately a half hour after that, that's
- 6 when Officer Samson came in the station and said
- 7 that he was available for that detail, so I had
- 8 Dispatcher Gale call back the hospital and tell
- 9 them that Officer Samson was available for this
- 10 detail.
- 11 Q. But on the night you wrote your report you said
- 12 that Jill Kennedy was told quote, "We did not
- 13 have a female officer available," end quote.
- 14 A. By Dispatcher Gale. I summarized my report.
- 15 Q. Well, is it your testimony -- did you speak with
- 16 Jill Kennedy?
- 17 A. Yes, I did, but I did not tell her that we did
- 18 not have a female. I spoke to Jill Kennedy at 1
- 19 o'clock, and said I do not have anybody
- 20 available right now, but when -- if you do need
- 21 us, we will be there.
- 22 Q. Do you understand what you have just told me is
- 23 inconsistent with what it says here in Exhibit
- 24 4?

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- 1 A. If you play back the recording, you will hear me
- 2 say to Jill that we don't have anyone available.
- 3 Q. It may, and I'm not suggesting it doesn't. I'm
- 4 just looking at your report, and it seems to me
- 5 you were focused on the issue of a female in
- 6 this report, and the report is in your own
- 7 typing?
- 8 A. Uh-huh.
- 9 Q. When you wrote the report, is this what you
- 10 wrote down?
- 11 A. That's what I wrote.
- 12 Q. And did you at some point tell Jill Kennedy --
- 13 A. I did not tell Jill Kennedy anything.
- 14 Q. Did you ever speak with Jill Kennedy at 1
- 15 o'clock?
- 16 A. At 1 o'clock -- I told her I had no one
- 17 available at 1 o'clock when she called back.
- 18 MR. BOYLE: Let's go off the
- 19 record for just one second.
- 20 (Discussion off the record.)
- 21 MR. BOYLE: We might as well stay
- 22 on the record.
- 23 Q. I guess I'm having trouble understanding this
- 24 because in your own typing it seems to

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- 1 suggest -- first of all, you are the one that
- 2 spoke with Jill Kennedy at 1 o'clock?
- 3 A. At 1 o'clock.
- 4 Q. And thereafter Samson volunteered for the
- 5 detail, correct?
- 6 A. Correct.
- 7 Q. And did you call Jill Kennedy back to say, He's
- 8 on his way?
- 9 A. I did not.
- 10 Q. Someone else did?
- 11 A. Correct.
- 12 Q. The only person who spoke with Jill Kennedy at 1
- 13 o'clock was you?
- 14 A. Correct.
- 15 Q. And then you wrote down this report?
- 16 A. I summarized my report, correct.
- 17 Q. Well, when you say you summarized your report,
- 18 this is your report?
- 19 A. That is my report, correct. What I should say I
- 20 summarized the events that transpired that night
- 21 into my report.
- 22 Q. And looking at this, does it refresh your memory
- 23 as to whether or not you were trying to find a
- 24 female officer?

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- 1 A. I probably was trying to find a female officer,
- 2 and I could not find one, and that's why I sent
- 3 Officer Samson.
- 4 Q. So your first preference was a female officer?
- 5 A. Probably, yes.
- 6 Q. I appreciate the clarification.
- 7 A. But it's so difficult in trying to fill details,
- 8 that the matter is whoever is available is going
- 9 to go, whether it's male or female.
- 10 Q. I understand it's been a while, but trying to
- 11 get back into that night --
- 12 A. I can't recall whether I was specifically
- 13 looking for a female or not.
- 14 Q. But Exhibit 4 suggests that you were.
- 15 A. Okay.
- 16 MR. LOUISON: Objection to the
- 17 form.
- 18 Q. I'll withdraw the question. Does Exhibit 4
- 19 refresh your recollection as you sit here today
- 20 four years later that you, in fact, were trying
- 21 to find a woman?
- 22 A. According to that, yes.
- 23 Q. And you further state that you had difficulty
- 24 finding a woman, so you had to go to the next

## VARALLO V TOWN OF NANTUCKET

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1 level, which would be a man? That's not well  
 2 worded.

3 A. Let me clarify. What I wanted to do was fill  
 4 the detail because they had called twice, so I  
 5 knew they were in urgency to have somebody  
 6 there.

7 Q. Okay.

8 A. I was unable to find a full-time officer to go  
 9 and fulfill that detail, which exhausted to my  
 10 next list, which was the summer specialists,  
 11 which I'm sure I had called females to see if  
 12 they were available, but nobody was available.  
 13 I was having a hard time trying to fill that  
 14 detail.

15 Q. Understood.

16 A. And Officer Samson came into the station and  
 17 said that he would take that detail, so to --  
 18 not to kill two birds with one stone, but it  
 19 made the hospital happy. They got an officer.  
 20 I felt comfortable because there was an officer  
 21 there.

22 Q. But, again, using this as refreshing your  
 23 memory, your mindset, if we could do back to  
 24 that night if you had your druthers, you would

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1 Q. But is this a duty roster?  
 2 A. No -- well, I guess so, not one that I'm  
 3 familiar with to be honest with you. Suzie  
 4 Gale, I believe, was working that night. She  
 5 was my dispatcher. Linda Burns, she is the  
 6 dispatcher for the day shift. Francis Bassett  
 7 was not working. I do not recall Jill Lynch,  
 8 and then there was me.

9 MR. BOYLE: Why don't we mark  
 10 this next one as Exhibit 5, please?

11 (Exhibit 5, List of Names,  
 12 marked for identification.)

13 Q. And you were referring to the highlighted items  
 14 on Exhibit 5?

15 A. Correct.

16 Q. And that's not a format of a document that  
 17 you're familiar with?

18 MR. BOYLE: Brother counsel can  
 19 probably help me in the future at some point,  
 20 but I won't trouble you with that any further.

21 A. It's not my everyday duty roster, put it that  
 22 way, of who was working that night and who  
 23 wasn't.

24 Q. How about this document? I think that's a

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1 like to find a female, but you had trouble  
 2 finding one?

3 A. I guess so, yes. I don't recall. To be honest  
 4 with you, I don't recall. I mean, the report  
 5 says that I was looking for a female officer. I  
 6 don't recall specifics.

7 Q. Understood. But the report certainly was an  
 8 honest one when you made it?

9 A. Uh-huh.

10 Q. And still is to this date?

11 A. From what I can recollect of that is I was  
 12 notifying the hospital that I could not get a  
 13 female officer, and I did have a male officer to  
 14 which they accepted the male officer.

15 Q. Thanks for clarifying that. Now, in terms of  
 16 who was on duty that night --

17 A. I have no idea.

18 Q. I wouldn't expect you to, but let me have you  
 19 take a look at that document, and I'm sorry it's  
 20 been marked up, but does that tell you who might  
 21 have been -- is that a kind of document you are  
 22 familiar with?

23 A. Yeah. Well, I know the names, if that's what  
 24 you're asking.

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1 full-time police officer list as of '02, but  
 2 other than as indicated "no longer employed," is  
 3 that kind of document one you are familiar with?

4 A. Yes.

5 Q. And does that look like the active duty force  
 6 back in the summer of '02 as you glance through  
 7 the list?

8 A. Yes, I believe so.

9 MR. BOYLE: Let's make that 6,  
 10 please.

11 A. This was back in 2002, correct?

12 Q. Yes.

13 A. Okay.

14 (Exhibit 6, Active Duty List,  
 15 marked for identification.)

16 Q. Now, on this list I notice Chief Randolph Norris  
 17 is listed.

18 A. Uh-huh.

19 Q. Is he retired?

20 A. Yes.

21 Q. And when did he retire?

22 A. Two or three years ago.

23 Q. Is he on island?

24 A. He has a house on island, and he also has a

	53		55
1	house in Florida.	1	A. Not to my knowledge, no.
2	Q. I'll take a wild guess at what address he's at	2	Q. You do have internal policies and procedures on
3	now, but his island address when he's here, is	3	protective custody; do you not?
4	that 9 Bayberry Lane?	4	A. Yes.
5	A. Correct.	5	Q. And some of those, in fact, take place off
6	Q. And do you know what town in Florida he lives	6	police premises; do they not?
7	in?	7	A. Correct.
8	A. No, I don't.	8	Q. Do they all start on police premises; in other
9	Q. Do you stay in touch with him at all?	9	words, could you have a protective custody that
10	A. No, not really. His son was working for us as a	10	started outside the police station and ended up
11	summer special for the past couple of years, and	11	in the hospital?
12	I basically kept in contact through him.	12	A. I'm not sure what you mean by that.
13	Q. Through his son?	13	Q. Do all PCs, in your experience, come through the
14	A. Yeah, through his son.	14	police station at some point?
15	Q. And do you know what role Chief Norris played in	15	A. Yes.
16	connection with the Samson/Varallo incident?	16	Q. Do you ever have an event out in the community
17	A. I do not.	17	that becomes a PC and a trip to the hospital at
18	Q. And I'm going to show you a document, which I	18	the same time?
19	believe to be the summer officer list from 2002	19	A. Are you saying that they are in our custody?
20	which was produced by the town. Are you	20	Q. Pick somebody up out on the street. Somebody
21	familiar with a list like that?	21	has a medical issue and is drunk, perhaps, and
22	A. You expect me to remember these guys from four	22	is taken straight to the hospital or are they
23	and a half years ago?	23	all brought back here?
24	Q. No. Does the department keep a list of the	24	A. Some go straight to the hospital, yes, but we
	54		56
1	summer officers similar to that?	1	don't PC them. They just go right to the
2	A. I believe so, yes.	2	hospital. They are not under protective
3	MR. BOYLE: Can we stipulate	3	custody.
4	these were the summer officers in '02?	4	Q. Now, do you know if -- how would payment take
5	A. I can't stipulate that because I don't know.	5	place between the hospital and either Mr. Samson
6	MR. LOUISON: Why don't we go off	6	or the police department for his detail at the
7	the record for one second?	7	hospital?
8	(Discussion off the record.)	8	A. You would have to ask my detail officer. He
9	MR. BOYLE: That will be Exhibit	9	handles all the paperwork. I don't know.
10	7, please	10	Q. But the town doesn't pay Samson for that?
11	(Exhibit 7, Summer Officer List,	11	A. I would assume since the hospital was requesting
12	marked for identification.)	12	the detail officer, the hospital was responsible
13	Q. Now, did you -- were you debriefed or	13	for paying for the detail.
14	interviewed by Officers Mack and/or Adams in	14	MR. BOYLE: That's all I have.
15	connection with the event?	15	(Deposition of CHRISTINE E. LADNER closed.)
16	A. No.	16	
17	Q. And I think you told me earlier you didn't speak	17	
18	with the State Police?	18	
19	A. No, I did not.	19	
20	Q. Have any policies since the summer of 2002 at	20	
21	the police station here changed with regard to	21	
22	female officers watching female detainees as	22	
23	opposed to male officers watching female	23	
24	detainees?	24	

# ORIGINAL

UNITED STATES DISTRICT COURT FOR  
THE DISTRICT OF MASSACHUSETTS

05-11547-RWZ

\*\*\*\*\*

LAUREN VARALLO,

Plaintiff,

V

TOWN OF NANTUCKET - POLICE  
DEPARTMENT and JAMES SAMSON,  
Defendant.

\*\*\*\*\*

## EXHIBIT 6

Deposition of TOWN OF NANTUCKET -  
POLICE DEPARTMENT, By CHARLES B. GIBSON, taken  
on behalf of the Plaintiff, pursuant to Notice  
under the Federal Rules of Civil Procedure  
30(b)(6), before Janice A. Maggioli, RPR, RMR,  
CRR, and Notary Public in and for the  
Commonwealth of Massachusetts, at the Nantucket  
Police Department, 20 South Water Street,  
Nantucket, Massachusetts, on January 4, 2007,  
commencing at 1:54 p.m.

MAGGIOLI REPORTING SERVICES, INC.  
48 Watson Street  
Braintree, Massachusetts 02184  
(781) 356-2636

1 as to these topics?

2 A. Yes, it would.

3 Q. Now, does the Nantucket Police Department have  
4 policies with regard to --

5 MR. BOYLE: Can we take a  
6 one-second break?

7 (Short break was taken.)

8 Q. Now, you're familiar with the policies and  
9 procedures, obviously, of the Nantucket PD?

10 A. Yes.

11 Q. And I guess you basically grew up in them from  
12 the time that you were a summer special until  
13 now as deputy chief?

14 A. Yes.

15 Q. And I've taken testimony from other individuals  
16 here today, and would it be fair to say that  
17 there are some special recommended practices or  
18 procedures with regard to handling females who  
19 are detained?

20 A. As you phrase your question, no.

21 Q. If a female is going to be searched, are there  
22 any special procedures or practices with regard  
23 to searching a female detainee?

24 A. There are no special procedures. The

1 practice -- the practice is if we have a female  
2 officer available, that is often the path  
3 chosen, to have a female officer search a  
4 prisoner as opposed to having a male officer,  
5 but it is not a written policy that mandates  
6 that.

7 Q. I didn't mean to suggest that my question was  
8 limited to written policies.

9 A. When you refer to a policy or procedure, in my  
10 answer that is framed within a written document.  
11 All of our policies and procedures are written  
12 documents. When you refer to a practice, then  
13 that is different from a policy and procedure.

14 Q. So for purposes of your deposition, why don't we  
15 use your own definition, that a policy or  
16 procedure is something written, and a practice  
17 is the practice which is followed, but is not  
18 written.

19 A. Correct.

20 Q. Would that be fair to say?

21 A. Yes.

22 Q. And as a matter of practice, wouldn't it be fair  
23 to say that female detainees are searched by  
24 female officers when possible?

1 A. That's a preferred course of action, yes.

2 Q. And why is it preferred?

3 A. For a variety of reasons: Avoiding any  
4 complaint of impropriety upon the officer doing  
5 the search, also making it less confrontational.  
6 Most of the time when we're arresting someone,  
7 it's an adversarial relationship between the  
8 officer and the person arrested.

9 So if we can diffuse that  
10 situation by any means, whether it be by having  
11 a female search the female, that would make it  
12 easier and would diffuse the situation. That  
13 would be a practice we would try to do.

14 Q. And is that a practice that you were taught as  
15 you came up through the ranks of the police  
16 department?

17 A. Taught, no. I think common sense has infused  
18 that amongst officers. I can't recall being  
19 taught that or being told that. I would just  
20 say it's common sense.

21 Q. And is it a practice that is pretty uniformly  
22 adhered to by your fellow officers?

23 A. Yes.

24 Q. And as deputy chief, you have a lot of

1 recordings, and then listening to those  
2 recordings as I was culling through those, I  
3 heard that exact phrase.

4 Q. Had you -- and when did you listen to the tapes?

5 A. When you asked for them.

6 Q. Spring of '06?

7 A. Or early '06.

8 Q. But did that phrase -- the phrase was used by --

9 A. The hospital.

10 Q. The hospital. Okay. And had you heard the  
11 phrase before?

12 A. No, sir.

13 Q. Do you occasionally assign an officer to watch a  
14 detainee who may be a suicide risk?

15 A. Yes.

16 Q. And if that detainee is a woman and you have a  
17 woman available -- a woman officer available, do  
18 you try to match up the woman officer with the  
19 woman detainee for that assignment?

20 A. If we have an officer available working the  
21 shift, yes.

22 Q. And is it preferable to have a woman in that  
23 setting for all of the same reasons that you  
24 articulated earlier --

1 A. Yes.

2 Q. -- about searching?

3 A. Yes.

4 Q. So, as a matter of practice, would you generally  
5 agree that if there is a woman police officer  
6 available to interact with a woman citizen  
7 either on arrest, on search, on entering a cell  
8 or on a one-on-one watch, if a woman officer is  
9 available, it's preferable to have that officer  
10 handle the task?

11 MR. LOUISON: Objection to the  
12 form.

13 A. That's too broad. I mean, can you -- you just  
14 have to repeat it again.

15 Q. Sure.

16 A. If you wanted to ask each specific thing.

17 Q. I thought I had, but we talked about search.

18 All things being equal if you've got a woman  
19 detainee and a woman officer, you'll have the  
20 woman officer do the search, correct?

21 A. Correct.

22 Q. The same question, if you've got a woman officer  
23 available in the station and somebody has got to  
24 go into a woman's cell, you'll send the woman?

1 A. Correct.

2 Q. One-on-one watch, a suicide watch, for example,  
3 if you've got a woman officer available and the  
4 detainee is a woman, generally you'll try to use  
5 your woman officer, correct?

6 A. I would have to say no, not on the suicide watch  
7 because the suicide watch requires no  
8 interaction with the prisoner. The officer here  
9 -- when we do suicide watches here, the officer  
10 here sits in a chair outside the cell in the  
11 holding area basically out of direct view of the  
12 cell, but within eyeshot and earshot, and that  
13 officer just sits there in a chair. There's  
14 no -- the cell door stays closed. They don't  
15 have a key. They don't have any direct  
16 interaction, so we've used people off the shift.  
17 It doesn't matter in that instance.

18 Q. So --

19 A. I don't use the term "one on one." That's a  
20 foreign term to me. We use prisoner watches,  
21 suicide watch. That's our phraseology here.

22 Q. The phraseology is?

23 A. Prisoner watch or suicide watch.

24 Q. Are they one in the same thing?

1 A. No.

2 Q. What's the difference?

3 A. Suicide watch would be something that's -- we've  
4 had someone attempt suicide, done some sort of  
5 action to cause us suspicions that they are a  
6 threat of suicide, where a prisoner watch could  
7 be their attorney is visiting them or we've  
8 allowed a family member to visit them. So we're  
9 watching them or they are using a telephone or  
10 something else where we need to observe them,  
11 but not related to a mental condition or a  
12 medical condition.

13 Q. So, on a suicide watch in a cell, if I'm hearing  
14 you correctly, the officer is physically outside  
15 of the cell or the detainee is locked in the  
16 cell so there's no possibility --

17 A. Of interaction.

18 Q. So, in that event where the possibility of  
19 interaction is absent, gender really doesn't  
20 matter?

21 A. Correct.

22 Q. Now, occasionally do you get requests to send an  
23 officer to watch a suicide patient at a  
24 hospital? Have you ever heard of that

1 violent person. That's why we go.

2 We're not there to restrain  
3 people or to administer any type of medicine or  
4 anything. We're there in case the staff at the  
5 hospital can't control the patient or needs help  
6 controlling the patient or moving the patient.  
7 That's generally why we go at the request of the  
8 hospital.

9 Q. And that would be about the only reasons you  
10 would be over there?

11 A. Yes, if the hospital called.

12 Q. Have you ever been asked to go and sit and watch  
13 a patient over there at the hospital?

14 A. Yes.

15 Q. Was that on a protective custody?

16 A. Both. We've had -- we call down the list. We  
17 have a list that's a union list. It's a  
18 seniority list. Union rules dictate who gets to  
19 go on details, and we have a hierarchy of  
20 seniority that we go down, so the most senior  
21 person -- it's a third-party detail. If it's an  
22 off-duty or an overtime shift, either way,  
23 again, seniority union rules say who gets first  
24 pick at it.

So it goes by seniority.

2 Full-time officers get to pick. Usually if it's  
3 1 o'clock in the morning, no one wants to do it,  
4 and so then it just goes down to full-time  
5 people by seniority and then part-time people,  
6 summer officers. It goes right down the list.

7 Q. But my question was, have you personally been  
8 ever asked by the hospital to go over and sit  
9 and watch a patient?

10 A. No, and no one here would be personally asked to  
11 do that.

12 Q. Well, has the police department ever been asked  
13 by the hospital to send a police officer over to  
14 watch a patient?

15 A. Yes, they have.

16 Q. On how many occasions?

17 A. Where the hospital is simply requesting help,  
18 very rare. It would be hard to quantify when  
19 that -- how many times because often the  
20 hospital will call up the midnight shift. They  
21 will make a call to the dispatcher, Can you have  
22 an officer swing by? We're having a problem  
23 moving a heavy patient.

A midnight officer will drive by,

1 assist where we can, and that will be the end of  
2 it. We wouldn't even track that. The officer  
3 would swing by, render whatever assistance he  
4 could, then leave.

5 An officer being called to stay  
6 up there by the hospital for a period of time,  
7 it's a rare occurrence.

8 Q. Have you ever fulfilled such a duty?

9 A. No. I have never worked that detail at that  
10 request for those circumstances, no.

11 Q. Do you know of anybody else who has?

12 A. Not specifically. I know we have done it in my  
13 24 years. I know we have done details up there,  
14 but I'm not sure.

15 Q. Would it be fair to characterize it as quite  
16 unusual to have a police officer sitting on a  
17 detail watching a patient for eight hours or six  
18 hours?

19 A. At the hospital's request, yes.

20 Q. And ordinarily is that something that you  
21 wouldn't do?

22 A. No. We -- again, it's a small town. We try to  
23 help out where we can. The hospital requests  
24 assistance. We would try to render whatever

1 assistance that we could.

2 Q. You have indicated that you don't recall ever  
3 having done such a detail. Do you know -- apart  
4 from this lawsuit, do you know of any other  
5 occasion where any officer went over and spent  
6 several hours at the hospital's request watching  
7 a patient?

8 A. Specific names, no, but I know we have done it.  
9 Over the years we have done it.

10 Q. Are there any policies or procedures that relate  
11 to details?

12 A. Yes.

13 Q. Are they written policy and procedures?

14 A. Yes.

15 MR. BOYLE: Are they around? Off  
16 the record.

17 (Discussion off the record.)

18 Q. Apart from the written procedures for how  
19 details are passed out, are there any written  
20 procedures within the department that would  
21 govern one's conduct or behavior on details?

22 A. Yes.

23 Q. What do they relate to? Traffic situations  
24 only?

1 A. Yes.

2 Q. How about a detail over at the hospital, would  
3 there be any procedure that would relate to  
4 that?

5 A. Other than the specific policies regarding  
6 prisoner transportation, medical treatment of  
7 prisoners, jail care, no.

8 Q. Do you consider it an appropriate task for a  
9 police officer by way of a detail to be sitting  
10 at a hospital and being the primary person in  
11 charge of watching a patient who may be  
12 suicidal?

13 A. You use the word "in charge," I think I have to  
14 ask you to define what -- you need to define the  
15 specific circumstances. That's too general to  
16 respond.

17 Q. Well, let me start with you. You, yourself,  
18 have never fulfilled such a detail, correct,  
19 watching a suicidal patient at the hospital?

20 A. I have -- they were our prisoner. It was a  
21 police custody. It was a police protective  
22 custody.

23 Q. Protective custody?

24 A. Or police arrest, but they started in our jail.

1 Q. Okay.

2 A. And then went up to the hospital for the  
3 treatment.

4 Q. I guess my question to you is, setting aside  
5 protective custodies that originate here, do you  
6 consider it an appropriate use of a police  
7 officer to have a detail at the hospital to be  
8 the primary person watching a patient who may  
9 attempt to harm herself?

10 A. I would have to say the question whose  
11 responsibility is the patient? If the patient  
12 is a Nantucket Police Department protective  
13 custody or arrestee, then the responsibility --  
14 the care and custody of that prisoner is ours.

15                   If in this case where the patient  
16 was not in the custody of Nantucket police, then  
17 the hospital has the primary duty to watch that  
18 patient. That patient is owned by the hospital.  
19 If the patient or prisoner is owned by the  
20 police, then it is our primary responsibility.

21                   In this case, this was a hospital  
22 patient, so we did not have primary care and  
23 custody of this patient.

24 Q. Do you believe that was an inappropriate detail

1           to assign given the fact that you didn't, to use  
2           your words, own that patient, end quote?

3   A.   Based on what I know of this case and the task  
4           that was requested of us, we did not have  
5           primary care of the patient.  We were asked, to  
6           use the hospital words, do a one on one, which I  
7           would analogize to our officer sitting outside a  
8           secure cell watching a prisoner in a secure  
9           area.  We are observing them, but the primary  
10           responsibility to maintain care of the patient  
11           would be with the hospital, not with us.

12                         So is that a -- you use the word  
13                         "primary."  I don't believe we ever had that  
14                         role in this case.

15   Q.   I'm not sure I used the word "primary."  Maybe I  
16           did, but what I'm getting at is this:  You know  
17           that the patient in question was a 21-year-old  
18           intoxicated female?

19   A.   I know that now, yes.

20   Q.   And, again, unfortunately, because you've been  
21           designated, you have to have opinions on things  
22           that you didn't actually see happen, but part of  
23           the process of deposing the town is we have to  
24           take individuals and ask questions that you may

1 have to form opinions about as we speak, but you  
2 understand that the patient was a female,  
3 correct?

4 A. Correct.

5 Q. The patient was 20 or 21 years old, correct?

6 A. Correct.

7 Q. The patient had been intoxicated, correct?

8 A. Correct.

9 Q. The patient was in bed, correct?

10 A. Correct.

11 Q. It was the middle of the night, correct?

12 A. She was there I guess from 9 p.m. through the  
13 day, so she was there for a period of time, yes.

14 Q. And it originated when she tried to harm herself  
15 at home?

16 A. Correct.

17 Q. You know that now?

18 A. Correct.

19 Q. Now, in that setting do you think it's an  
20 appropriate thing to send a police officer out  
21 on a detail to watch that patient at the  
22 hospital?

23 A. On a request from the hospital, it would not be  
24 beyond the scope of what we do, no.

1 Q. Well, my question was a little different. Do  
2 you think it's an appropriate use of a detail  
3 officer to put him or her in that position on a  
4 prisoner you don't own -- a patient you don't  
5 own?

6 A. To assist the hospital in maintaining patient  
7 care for a potentially violent person, I think  
8 that is appropriate, yes.

9 Q. Did you have any indication that this person was  
10 violent?

11 A. No, I don't even believe she was based on what I  
12 know now.

13 Q. Now, do you think -- I would like you to assume,  
14 if you would, please, that the hospital was  
15 relying upon the detail officer to be the one  
16 who had that patient in his sight at all times,  
17 including times when hospital personnel were not  
18 physically looking at the patient. Is that an  
19 appropriate use of a detail officer?

20 MR. LOUISON: Objection.

21 A. Based on what I know of the layout of the  
22 hospital where they put these people, I would  
23 say no, because the nurses' station is right  
24 there by the room, so there would always be a

1                   nurse there, and we would be there at the same  
2                   time. So the nurse is always supposed to be  
3                   there. So what I know of how it is laid out at  
4                   the hospital, I would say we're there right with  
5                   the nurse all the time.

6                   So it's my understanding that we  
7                   are there to assist the nurse, and the nurse is  
8                   always the one who has responsibility to watch  
9                   the patient.

10 Q. 100 percent of the time?

11 A. 100 percent of the time.

12 Q. So it would be inappropriate to try to shift or  
13                  for the hospital to try to shift that responsi-  
14                  bility to a detail officer?

15 A. Yes.

16 Q. So that if I'm following the thread of the  
17                  discussion, it would be an inappropriate use of  
18                  a detail officer to give that officer primary  
19                  responsibility for physically observing that  
20                  patient throughout the night?

21                   MR. LOUISON: Objection to the  
22                  form.

23 A. If I knew that they wanted us to have that  
24                  primary responsibility, I would not allow the

1 officer to do it.

2 Q. Why?

3 A. Because we don't own that person. We are not  
4 primarily responsible for the care and custody  
5 of that patient. They are a patient in the  
6 hospital. We, the Nantucket police, do not have  
7 responsibility for that person. So the hospital  
8 dictates what happens to that person.

20 Q. And I think I get the concept, and from your  
21 testimony I assume it is your opinion that the  
22 primary responsibility for physically keeping  
23 that woman in sight 100 percent of the time was  
24 with the nurse or nurses, correct?

1 A. Correct.

2 Q. And it was not delegable or delegatable to a  
3 detail officer, correct?

4 A. Correct.

5 Q. And so if the detail officer had been placed in  
6 charge in -- in primary charge of watching the  
7 patient 100 percent of the time that night, that  
8 would have been an inappropriate use of a  
9 detail?

10 A. That would be a violation of our practice. Now,  
11 when you say "inappropriate use," I don't know  
12 who is using it, but the police department would  
13 not allow that practice to happen if we knew of  
14 it.

15 Q. Because that would -- well, it would be a  
16 violation of internal protocol?

17 A. Right, and I believe it would be a violation of  
18 hospital protocol.

19 Q. So, on that night in question involving Mr.  
20 Samson, in your view as you reconstructed these  
21 events -- and I know you weren't out there that  
22 night, but as you reconstruct everything, the  
23 primary responsibility for keeping an eye on  
24 that patient 100 percent of the time all night

1           have to watch that woman 100 percent of the  
2           time, and a police officer is there only for  
3           backup?

4       A.    Yes. I mean, we could have been called to park  
5           cars up there. It doesn't matter.

6       Q.    But wouldn't have done it?

7       A.    Sure we would have. If the hospital called us  
8           up and said, "We need security in the lobby  
9           because we have a high-profile person up there,"  
10          we've gone up there to do security in the lobby.  
11          We've gone up there to do security. We've had  
12          plane crashes where a lot of people have come to  
13          the lobby. The hospital has hired us as detail  
14          officers to shut down hallways. We've gone to  
15          the hospital on details for numerous reasons.

16      Q.    But if anyone -- well, strike it out.

17                   If the Nantucket Police  
18                  Department knew that this request from the  
19                  hospital was for a police officer on detail to  
20                  be the primary person watching the patient all  
21                  night, would it be fair to say you wouldn't  
22                  accept that detail?

23      A.    Yes, that is fair to say.

24      Q.    Because that would violate your practices?

1 A. It would violate our practices.

2 Q. Now, would you also agree that if a police  
3 officer is going to be sent up to watch a 20- or  
4 21-year-old intoxicated woman in a bed at the  
5 hospital in the middle of the night, it's  
6 preferable to send a woman officer?

7 A. No, it would not be preferable in this case, no.

8 Q. What is it about this case which makes it not  
9 preferable?

10 A. If the hospital is calling us for either  
11 manpower, someone to physically restrain someone  
12 or someone to physically track someone down or  
13 prevent some sort of harm happening, we may not  
14 send a person of slight build to do a  
15 physical -- if it involved physical interaction  
16 with a violent person or something else that  
17 they would want something to happen.

18 We could have -- if it's just  
19 looking through a window to see if something is  
20 happening, we could send anybody. It doesn't  
21 matter because there's not supposed to be any  
22 interaction between the officer and the person  
23 we're watching in this case.

24 Q. An officer shouldn't even be in the room?

1 A. I will say no.

2 Q. And that's town or police department practice?

3 A. It's the role that we fill in this instance. If  
4 we're called to watch someone, we'll watch the  
5 door. We'll watch with some -- we'll assist the  
6 nurse. We're not the primary person. We  
7 wouldn't know to watch them for a medical  
8 condition. We wouldn't know to monitor them.  
9 That's not what we're doing.

10                   We're there to do a security job  
11 or we're there to assist the nurse in physically  
12 restraining the person who is trying to escape  
13 or we've had them trying to escape the hospital  
14 before. That would be my interpretation of why  
15 they would want someone there, that this person  
16 is either putting up some physical restraint,  
17 stopping the nurses from doing what they were  
18 doing or was a flight risk, and they wanted  
19 someone to either grab them or chase them down  
20 and put them back in their bed.

21 Q. But --

22 A. But that would be at the request of the nurse.

23 Q. But none of that happened with Lauren Varallo,  
24 correct?

9 Q. Now, if you had known that the assignment was to  
10 be the primary observer of the patient, would  
11 you have sent out an officer to do that?

12 A. Again, I'm not sure we were the primary, and we  
13 would not be the primary. If the hospital said,  
14 We want an officer to sit in a room with a  
15 female patient and have the only interaction  
16 with the female patient and there will be no one  
17 else monitoring this male officer for the entire  
18 night, I would say no.

19 Q. Why?

20 A. Why? Because it would just breed any further  
21 type of allegation. It's something we don't do.  
22 It is not our responsibility to monitor a  
23 patient at the hospital. Why interject  
24 ourselves into a situation that is not our job?

1 Q. That's different?

2 A. Yes.

3 MR. BOYLE: On the ferry I'll  
4 think of more questions, but I think that's all  
5 I have.

6 MR. LOUISON: Just by agreement,  
7 if you will, we're going to -- in regard to our  
8 ongoing discovery, to the extent that there is a  
9 detail policy --

10 THE WITNESS: That's the union  
11 contract about assignment of details.

12 MR. LOUISON: I'm sorry --

13 THE WITNESS: The hospital  
14 billing.

15 MR. LOUISON: The hospital  
16 billing on the Samson detail, if there are  
17 documents that we can retrieve indicating the  
18 method of payment or the payment history, we'll  
19 get that and produce that, and to the extent, if  
20 this is acceptable to you, explain or further  
21 clarify the exhibit, which is entitled "Summer  
22 Officers," if there is any change in the  
23 testimony we produced, I will forward you a  
24 letter --

**EXHIBIT 7**UNITED STATES DISTRICT COURT FOR  
THE DISTRICT OF MASSACHUSETTS

LAUREN VARALLO,  
Plaintiff,

v.

TOWN OF NANTUCKET - POLICE  
DEPARTMENT and JAMES SAMSON,

Defendants.

CIVIL ACTION  
NO: 05-11547-RWZ

**Plaintiff's Liability Expert Disclosures Pursuant to Fed. R. Civ. P. 26(a)**

Plaintiff expects to offer the testimony of the following liability expert at the trial of this matter: Paul J. Mackowski, 250 Melrose Street, Melrose, Massachusetts 02176. This written report has been prepared by the witness, with the assistance of counsel for the plaintiff, to set forth his qualifications, a summary of his opinions, the basis for those opinions, the data and information upon which he relies, materials which he expects may be used at trial in support of his opinions and other information required by Fed. R. Civ. P. 26 (a)(2). Plaintiff notes, however, that certain factual information from defendant Town of Nantucket - Police Department has yet to be disclosed or produced or is not yet available for review by Mr. Mackowski and, therefore, plaintiff reserves her right to amend and/or supplement this disclosure as necessary and appropriate upon receipt of the Town's remaining discovery.

**Summary of Expected Testimony:** Mr. Mackowski is expected to testify regarding his education, training and experience, his review of the disclosures, written discovery, documents produced, deposition and trial testimony and exhibits as well as other evidence in this case, his analysis of that material, his observations regarding law enforcement policies, procedures, practices, customs, circumstances and training in general, and those of the Nantucket Police Department in particular, as well as regarding the events leading up to, during and following the sexual assault of Lauren Varallo by Nantucket Special Police Officer James Samson. More specifically, Mr. Mackowski is expected to testify as follows:

**Qualifications:** Detective Paul J. Mackowski has been a police officer with the Medford Massachusetts Police Department for 22 years and has been a detective for seven of those years. In addition to serving Medford, early in his law enforcement career, he served as a special police officer in Brattleboro, Vermont, as a Temporary Summer Officer in Scituate, Massachusetts and as a security officer at the Boston Gardens. Mr. Mackowski also has a consulting firm, The M Group, that specializes in law enforcement training, program consulting and private investigation services.

Mr. Mackowski graduated from Northeastern University in 1984 with a Bachelor of Science degree in Criminal Justice and received his Masters in Criminal Justice in May 2001. During his years as a police officer and detective, he has received additional law enforcement training in numerous programs through, among others: the Federal Bureau of Investigation; the U.S. Attorney General's Office; the Massachusetts Attorney General's Office; the Middlesex County District Attorney's Office; the Massachusetts Criminal Justice Training Council; Suffolk University in Boston and Oxford University in England. He has considerable training in such matters as the proper training for, and conduct of, protective custodies and the investigation and prosecution of sexual assaults.

Mr. Mackowski has served as a consultant in assessing the law enforcement needs of Russia in coping with burgeoning criminal activity resulting from the collapse of communism. He coordinated the first United States / Russia Police exchange program. In 1996, he was assigned to the United States Department of Justice in Washington, DC where he assessed the policing needs and development of both short-term and long-term police training for the countries of the former Soviet Union. He has given briefings on the status of police and law enforcement training needs in former Soviet Union states to: the Central Intelligence Agency; the Federal Bureau of Investigation; the United States Senate's Permanent Subcommittee on Investigation; and the United States State Department. In other countries, he coordinated a police human rights training program for the United States Naval Justice Center of Newport, Rhode Island, for police officers from Papua New Guinea and Fiji. He served as a staff instructor at the Haitian National Police Academy in Port-au-Prince, Haiti.

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**Statement of Opinions:** Noting that the disclosure or production of certain information from the Nantucket Police Department is, as yet, incomplete or is not yet available for review, Mr. Mackowski is nevertheless prepared to offer opinions regarding the following issues, subject to the right to amend and/or supplement such opinions upon receipt of the Town's remaining discovery.

(1) Mr. Mackowski is expected to testify regarding the meaning of "protective custody" in the field of law enforcement. He is expected to testify that an individual is in police custody if a police officer, acting in his role as a law enforcement officer, speaks, acts or behaves in such a way that an ordinary person in the individual's position would reasonably believe they were not free to leave or that their freedom was restrained. That individual is in protective custody if that restraint, or the reasonable belief of restraint, exists in order to protect the individual from harming himself or herself or others. Mass. Gen. L. c. 111B is one type of protective custody by which a Massachusetts police department is authorized to take an impaired individual who is out in the community into custody for the purpose of protecting the individual from injuring him or herself or others. However, Chapter 111B is not the only form of protective custody.

(2) Regarding this case in particular, Mr. Mackowski is expected to testify regarding the training, policies, procedures, customs and practices used by police departments to protect the rights of females in protective custody on the one hand, and individual police officers and the department on the other. He is expected to testify that it is standard practice during an officer's training with a police department, to be informed that every effort should be made to minimize a male officer's unsupervised contact with females in custody. He is expected to testify that it is

standard practice for departments to, for example, insist that only female officers or matrons (women who are not officers of the department but who are hired and trained to perform such tasks when needed) search females in custody, only female officers or matrons observe or guard females in custody if it is an unsupervised setting, and a male officer transporting a female in custody should contact his dispatcher, state his location and intended destination, and report his vehicle odometer readings before he departs with a female in custody and when he arrives. The primary purpose for such steps is to avoid, or to closely supervise and monitor, a male officer who has a female detainee in custody in order to minimize the risk of and opportunity for a sexual assault upon a female detainee as well as allegations of any such assault against the officer.

Mr. Mackowski is expected to testify that he has been required to follow these practices in small police departments as well as in the City of Medford. He has personally trained numerous officers to abide by these practices, and has observed officers training new recruits to abide by them as well. He is expected to testify that in his 22 years of experience as a police officer, he has not encountered any debate regarding the necessity of these procedures because the need for such steps is quite clear.

(3) Mr. Mackowski is expected to testify regarding police work that is at least in part paid for by a third-party, sometimes referred to as "details." He is expected to testify that a "detail" typically identifies the method by which certain Town or police services are paid. A "detail" may also define the relationship between a company or community organization (such as a construction company, a school or a hospital) and the police department, but it does not define the relationship between an officer and a person in custody during or as a result of police services performed on that detail. He is further expected to testify that, unlike typical calls for police assistance, a police department may decline a call to conduct a detail if the department does not have the ability or personnel needed to perform the job properly or safely. He is expected to testify that in performing details, officers are still required to follow the policies and practices of the department, and are expected to exercise police powers when necessary. He is expected to testify that, generally, it would be contrary to well-established law enforcement policy to ignore police policies and practices relied upon during usual police operations simply because the officer was being paid by a third party. An officer serving a detail remains a law enforcement officer subject to department regulations, practices and procedures regardless of who or which community organization is paying for the police department's services.

(4) Mr. Mackowski is expected to testify concerning the law enforcement community's awareness of the problem of sexual misconduct by police officers. He is expected to testify that during his years as a police officer he knows of numerous incidents of police sexual misconduct and that its existence is well known in the law enforcement community. The conduct ranges from stopping a woman for a traffic violation solely for the purpose of obtaining more information about her, to engaging in sexual intercourse in a police cruiser, to sexual assault. Some conduct is reported, some is not. He is expected to testify that his personal knowledge from working as a police officer in Massachusetts is consistent with national reports and literature concerning the issue, and that the risk of police sexual misconduct is obvious to anyone working in the field of law enforcement.

(5) Mr. Mackowski is expected to offer his opinion that the Nantucket Police Department's failure to have in place clear policies and practices concerning the assignment of male officers to supervision of women in protective custody was contrary to standard practices and was negligent and reckless in its failure to anticipate the possibility of police sexual misconduct. He is further expected to testify that if, in fact, the assignment to a so-called "suicide watch" (as one officer called it) of a female was considered by the Department to be a "detail," then there were no policies and procedures in place directing the dispatch officers or their superiors to decline it if a properly trained female officer or matron was unavailable at the time. He is further expected to testify that, while the Department's most senior personnel seem to claim the existence of an unwritten policy that females should be guarded by females in an unsupervised setting and that, at the hospital, only the nurses were to perform "one-on-one" watches with a police officer available only as back-up (and never alone with a detainee), neither Officer Samson nor his immediate superior, Sergeant Ladner (or any of the other line personnel), were aware of any such policy. Therefore, either no such policy, in fact, existed or there was no training on any such policy which is the same as having no policy at all.

Mr. Mackowski is also expected to testify regarding the Department's assignment of Officer Samson to protective custody of a young, intoxicated woman in an unsupervised setting, and its failure to follow the most basic procedures for investigating an allegation of sexual assault. Mr. Mackowski is expected to testify that the Department should have either declined to accept the detail, if that was what it was, or it should have assigned a female officer or matron to perform the so-called "suicide watch." He is expected to testify that a male officer such as Officer Samson should not have been assigned to so-called "one-on-one" duty of a female detainee and should not have stationed himself or been allowed to station himself in her room and next to her bed. Officer Samson testified that, even though he considered Lauren Varallo to be in protective custody, that she was not free to leave and that he would not have let her leave, he had not received any training that he was not supposed to be stationed inside her room or that he was supposed to be serving only as back-up to nurses who were primarily to conduct any one-on-one observations. The Department has produced no evidence that it had in place any training consistent with such policies or that Officer Samson or his immediate supervisor, Sergeant Ladner, ever received such training.

Mr. Mackowski is expected to testify that upon learning of the allegation against Officer Samson, Sergeant Ladner should have immediately given formal notice to the Department's designated "Rape Officer" and to have: ordered that the scene, including the victim's bedding and clothing, be preserved for possible testing; created an evidence sheet; requested Officer Samson to cooperate and remain available during investigation; and contacted either the Department or the Massachusetts State Police to find out the proper way to obtain any necessary skin, tissue, hair and/or other samples for possible testing. None of these usual police steps regularly followed in a sexual assault investigation were taken with respect to the allegations against a fellow officer in this case.

**Basis of the Opinions:** Mr. Mackowski's opinions are based upon his review of: the pleadings in this case including the Complaint, the Answers of James Samson and of the Town of Nantucket; written discovery responses and disclosures including the Defendant Town of Nantucket's Response to Plaintiff's First Request for Production of Documents, Defendant Town

of Nantucket's Supplemental Response to Plaintiff's First Request for Production of Documents, Defendant Town of Nantucket's Answers to Plaintiff's First Set of Interrogatories, Plaintiff's Answers to the Defendant Town of Nantucket's First Set of Interrogatories, Plaintiff's Responses to Defendant Town of Nantucket's First Request for Production of Documents, Plaintiff, Lauren Varallo's Automatic Disclosures, Defendant Town of Nantucket's Automatic Disclosures and Defendant James Samson's Automatic Disclosures; and testimony and related exhibits from the Depositions of Lauren Varallo, Christine Ladner, Charles Gibson, Suzanne Gale, James A. Samson, and John Welch. The depositions of Nantucket Police Detectives Adams and Mack and of retired Police Chief Norris were not available for review at the time of his opinions and plaintiff has reserved her right to have Mr. Mackowski amend and/or supplement this report upon receipt of such materials. Finally, Mr. Mackowski's opinions are based upon his education, training and experience and his observations, review and analysis of Massachusetts statutes and law enforcement policies, procedures, practices, customs, circumstances and training materials in general, and those of the Nantucket Police Department in particular. He expects to refer to and use such materials as he offers his opinions during the trial of this matter.

In accordance with Fed. R. Civ. P. 26(a)(2), Mr. Mackowski states that his compensation is \$150 an hour, that he has not issued any publications in the past ten (10) years and, while he has testified in many dozens of criminal matters in the past four (4) years as an arresting or investigating officer, he has not testified in the capacity of a retained expert at trial or at deposition in the past four years.

SIGNED UNDER THE PAINS AND PENALTIES OF PERJURY THIS 11 DAY OF MAY, 2007.

  
\_\_\_\_\_  
Paul J. Mackowski

VARALLO V TOWN OF NANTUCKET

UNITED STATES DISTRICT COURT FOR  
THE DISTRICT OF MASSACHUSETTS

05-11547-RWZ

LAUREN VARALLO,  
Plaintiff.

V

TOWN OF NANTUCKET - POLICE  
DEPARTMENT and JAMES SAHSON,  
Defendant.

Deposition of SUZANNE GALE, taken on  
 behalf of the Plaintiff, pursuant to Notice  
 under the Federal Rules of Civil Procedure,  
 before Janice A. Maggioli, RPR, RMR, CRR, and  
 Notary Public in and for the Commonwealth of  
 Massachusetts, at the Nantucket Police  
 Department, 20 South Water Street, Nantucket,  
 Massachusetts, on January 4, 2007, commencing at  
 11:16 a.m.

MAGGIOLI REPORTING SERVICES, INC.  
 48 Watson Street  
 Braintree, Massachusetts 02184  
 (781) 356-2636

1 APPEARANCES:  
 2 Merrick, Louison & Costello, LLP  
 [By Douglas I. Louison, Esq.]  
 3 67 Batterymarch Street  
 Boston, Massachusetts 02110  
 4 On behalf of the Town of Nantucket - Police  
 Department.  
 5 Heehan, Boyle, Black & Bogdanow  
 [By Leo V. Boyle, Esq.]  
 6 Two Center Plaza  
 Boston, Massachusetts 02108  
 7 On behalf of the Plaintiff.

## EXHIBIT 8

1 INDEX  
 2 Witness Direct Cross Redirect Recross  
 3 Suzanne Gale  
 4 By Mr. Boyle 5

## EXHIBITS

8 Id.	9 Description	10 Page
2	Deposition notice	4

22  
 23  
 24

STIPULATION

1 It is agreed by and between counsel  
 2 for the respective parties that the reading  
 3 and signing of the deposition will not be  
 4 waived. All objections, except as to the form  
 5 of the question, and motions to strike will be  
 6 reserved until the time of trial.

7  
 8 (Exhibit 2, Deposition Notice,  
 9 marked for identification.)

10 MR. BOYLE: Could you swear her  
 11 in, please?

12  
 13 SUZANNE GALE,  
 14 having been satisfactorily  
 15 identified and duly sworn by the  
 16 Notary Public, was examined and  
 17 testified as follows:

18 MR. BOYLE: We're taking this  
 19 deposition pursuant to Exhibit 2, which is a  
 20 notice of taking deposition served November 30th  
 21 of '06 and reconvened until today, January 4th  
 22 of '07, and we'll reserve all objections, except  
 23 as to the form of the question, reserve motions  
 24 to strike until the time of trial, if that's

	5		7
1	acceptable.	1	Q. So would that be about -- what year did you
2	MR. LOUISON: Yes.	2	start as a dispatcher?
3	MR. BOYLE: Have the witness sign	3	A. I started in 1991, September, as a dispatcher.
4	it under the pains and penalties of perjury	4	Q. And is that a uniformed position?
5	rather than before the Notary, if that's	5	A. Yes.
6	acceptable.	6	Q. Did you have to go to the police academy
7	MR. LOUISON: Yes.	7	before --
8	MR. BOYLE: And we'll treat it in	8	A. No, it's a civil -- I mean I'm a civilian
9	all respects as though signed if we don't get a	9	dispatcher.
10	signature page back within 30 days.	10	Q. Did you carry a weapon in that position?
11	MR. LOUISON: Yes.	11	A. No.
12	MR. BOYLE: Any other prelims or	12	Q. And how long were you a dispatcher?
13	are we all set?	13	A. I was a dispatcher for ten years.
14	MR. LOUISON: We're all set	14	Q. Until 2000 --
15	<u>EXAMINATION BY MR. BOYLE</u>	15	A. 2002 I went to the academy as a full-time police
16	Q. Would you please state your name for the record?	16	officer.
17	A. I'm Suzanne Gale.	17	Q. So you've lived on the island full time since
18	Q. And your age is?	18	'91?
19	A. 36.	19	A. '87. As soon as I graduated, I came to live
20	Q. My name is Leo Boyle, and I represent the	20	with my father here on Nantucket.
21	plaintiff in this case, Lauren Varallo. And	21	Q. Okay. And which police academy did you go to in
22	your professional address is?	22	2002?
23	A. My professional address --	23	A. Plymouth Police Academy.
24	Q. Your office address? What's your office	24	Q. And did you go to the academy after the
	6		8
1	address?	1	events --
2	A. Office as in the police department? 20 South	2	A. Yes.
3	Water Street, Nantucket, Mass., 02554.	3	Q. -- involving Miss Varallo and Mr. Samson?
4	Q. And can you tell me about where you went to high	4	A. Yes.
5	school and what year you graduated?	5	Q. But at the time of the events, you were a
6	A. I graduated in '87, Suffield, S-U-F-F-I-E-L-D,	6	full-time employee of the Town of Nantucket as a
7	High School.	7	dispatcher?
8	Q. Is that Connecticut?	8	A. Correct.
9	A. That's correct.	9	Q. Which means you didn't have any foot-patrol
10	Q. And did you have education beyond high school?	10	duties or any duties outside the station,
11	A. I went to two years of college for art, was an	11	correct?
12	art major.	12	A. No.
13	Q. Whereabouts?	13	Q. Now, do you have a recollection of the events of
14	A. That was in New Haven, Connecticut.	14	the night in question?
15	Q. And after that, did you go right into police	15	A. No, I can't remember everything. I mean, it
16	work or did you work?	16	was -- I don't know how many years ago.
17	A. I worked. I was an assistant manager with	17	Q. It was 2002.
18	Parcel Plus -- it's packaging and shipping --	18	A. So, it's a typical July. I worked the midnight
19	for a couple of years until I became a	19	shift as a dispatcher.
20	dispatcher with the police department like three	20	Q. What are the hours for that?
21	years after that.	21	A. You come in at quarter of midnight, and you're
22	Q. And when you say "the police department," you	22	done at 8:15.
23	mean Nantucket?	23	Q. And apart from looking at any records, do you
24	A. Yes, Nantucket.	24	have a recollection of the events of that night?

1 A. No, I didn't know anything about that until a  
 2 couple of days later. So, as a civilian  
 3 dispatcher, I'm up in the front there. I  
 4 don't -- like everything is -- there's officers  
 5 and everything behind me. So I don't know what  
 6 the officers are doing unless I send them on a  
 7 call, and once I give the call, then they do  
 8 their thing, so --  
 9 Q. Do you remember -- apart from anything you've  
 10 read to get ready for the deposition today, do  
 11 you remember getting a call from the hospital?  
 12 A. Yes, looking for a -- someone to watch somebody  
 13 up at the hospital.  
 14 Q. Tell me what you remember about that.  
 15 A. Just looking to see if they could get a person  
 16 to come watch a party up at the hospital.  
 17 That's all they said or -- I don't know any more  
 18 than that.  
 19 Q. At the time you got that call, were you made  
 20 aware that they had called a couple of hours  
 21 earlier?  
 22 A. No. The sergeant that was on the evening shift  
 23 was also the sergeant for the midnight shift.  
 24 So I just told the sergeant that they are

9  
 1 A. No.  
 2 Q. Were you asked to try to find somebody to cover  
 3 the assignment?  
 4 A. No, not to my recollection, no, because she was  
 5 -- like I said, I guess it happened during the  
 6 evening shift, so she was handling it.  
 7 Q. So, in terms of responding to the hospital's  
 8 request for someone to watch this patient, you  
 9 transferred that entire responsibility to  
 10 Sergeant Ladner?  
 11 A. Correct.  
 12 Q. And that was all you had to do with it?  
 13 A. Correct. To my recollection, that's all I can  
 14 remember, her taking the call.  
 15 Q. She didn't come back to you and ask you to make  
 16 some calls to the dormitory?  
 17 A. Not that I can remember.  
 18 Q. Are you familiar with police department  
 19 policies? I know you are a dispatcher, but are  
 20 you familiar with policies with regard to  
 21 whether or not a female in custody should be  
 22 guarded by a female versus a male? Are you  
 23 familiar at all with those policies?  
 24 MR. LOUSICON: Objection to the

10  
 1 looking for someone up the hospital, and she  
 2 took over the phone call.  
 3 Q. Her name?  
 4 A. That would be Sergeant Ladner.  
 5 Q. Did she take it over in your presence or did you  
 6 switch it to another line?  
 7 A. Switched -- put the line on hold, and she picks  
 8 up.  
 9 Q. Were you within earshot when she picked up?  
 10 A. No.  
 11 Q. Do you know what she said to the hospital or  
 12 what they said to her?  
 13 A. No.  
 14 Q. When you got that call, did you have an  
 15 understanding that it was a woman to be watched  
 16 at the hospital?  
 17 A. No.  
 18 Q. You just didn't know?  
 19 A. No. I was just coming on my shift.  
 20 Q. Okay. After you transferred the call to  
 21 Sergeant Ladner, did you have anything further  
 22 to do with --  
 23 A. No.  
 24 Q. -- this assignment at the hospital?

12  
 1 form of it. Go ahead. You can answer.  
 2 A. There are no policies saying a female has to  
 3 watch a female.  
 4 Q. Are you aware of any practices or preferences  
 5 within the department that, for example, if it's  
 6 a one-on-one watch in the station, that if the  
 7 incarcerated person is a female, that it's  
 8 preferable to have a female officer doing the  
 9 watch? Are you familiar with that?  
 10 A. No.  
 11 Q. Are you familiar with a policy that if a female  
 12 in custody is to be searched, that the search be  
 13 done by a female?  
 14 A. No.  
 15 Q. So basically you're not familiar with any  
 16 policies regarding gender at all?  
 17 A. Correct.  
 18 Q. And you understand I'm talking not just about  
 19 written policies, but also verbal policies or  
 20 practices that are followed; you're not aware of  
 21 any such --  
 22 A. No.  
 23 Q. You are now a police officer for the town?  
 24 A. Correct.

- 1 Q. Have you -- since you stopped being a  
 2 dispatcher, have you become familiar with any of  
 3 these policies?  
 4 A. No. If I make an arrest, if I arrest a male, I  
 5 treat him the same way. I mean, you do -- you  
 6 do everything every other police officer does.  
 7 I always make sure that someone is present, but  
 8 that's just practice for my party, safety.  
 9 There's always someone standing there. No one  
 10 told me that's how it's done. That's police  
 11 officer safety-wise, that's what you do.  
 12 Q. Apart from the police academy, did you get any  
 13 formal training by the Nantucket Police  
 14 Department?  
 15 A. To be a dispatcher?  
 16 Q. No, to be a police officer.  
 17 A. What do you mean? I went to the academy they  
 18 sent me to.  
 19 Q. But beyond that, are there courses that the  
 20 police department here gives you about their  
 21 internal practices and procedures?  
 22 A. Well, every year we have our updates on our  
 23 laws, and we call it in-service.  
 24 Q. Do you know why Officer Samson was -- he

13

1 I hereby certify that I have read the  
 2 foregoing deposition transcript of my testimony,  
 3 and further certify that said transcript is a  
 4 true and accurate record of said testimony.  
 5  
 6  
 7

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 SUZANNE GALE

8  
 9  
 10  
 11 Signed under the pains and penalties of  
 12 perjury this \_\_\_\_ day of \_\_\_\_\_, 2007.  
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14

1 Commonwealth of Massachusetts  
 2 Suffolk, ss.

3  
 4 I, Janice A. Maggioli, a Registered  
 5 Professional Reporter and Notary Public duly  
 6 commissioned and qualified within and for the  
 7 Commonwealth of Massachusetts, do hereby certify  
 8 that there came before me on the 4th day of  
 9 January 2007 at 11:16 a.m., the person  
 10 hereinbefore named, who was by me duly sworn to  
 11 testify to the truth and nothing but the truth  
 12 of his knowledge touching and concerning the  
 13 matters in controversy in this cause; that he  
 14 was thereupon carefully examined upon his oath  
 15 and his examination reduced to typewriting under  
 16 my direction; and that the deposition is a true  
 17 record of the testimony given by the witness. I  
 18 further certify that I am not interested in the  
 19 event of the action.

20 IN WITNESS WHEREOF, I have hereunto set my  
 21 hand and affixed my notarial seal this 10th day  
 22 of January 2007.

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 Notary Public

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NANTUCKET  
POLICE  
DEPT.

<b>ORDER</b>	<b>ISSUE DATE</b>	<b>EFFECTIVE DATE</b>
General	05-01-87	05-01-87

NUMBER

87-40

SUBJECT	REFERENCE	AMENDS	RESCINDS
LOCK UP PROCEDURE		EXHIBIT Gibson 10 1-4-07	82-05 79-02

POLICY

To secure a set of rules pertaining to prisoners while in the Departments lock up; on being searched and providing hospitality as the need so dictates: Also our releasing procedures.

PROCEDURES

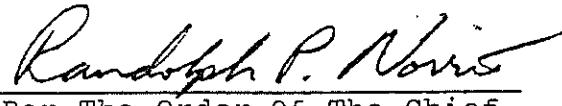
- A. Prisoners: All prisoners arrested and brought to the station shall be accompanied by the arresting Officer and an assistant Officer during the booking procedure or until incarceration. If at all possible, prisoners will be brought in through the garage entrance. The OIC shall immediately be advised and is responsible for the prisoner.
- B. All Officers should secure their weapons prior to entering the cell area and while processing prisoners, said weapons should be secured in weapons locker in booking area.
- C. All prisoners should be thoroughly searched prior to incarceration for security and individual protection. Before handcuffs are removed, prisoners should have a pat down frisk for weapons and once the cuffs have been removed, a more thorough inventory search should be done.
  - 1. Any and all clothing apparel ie; belts, ties, shoes, laces, tie strings, rings, ear rings, necklaces, watches etc., which could be used by said prisoner to harm himself or others should be confiscated and held in safe keeping.
  - 2. All money & personal items confiscated will be counted and noted on the prisoner Property Bag.
  - 3. Jackets, shoes, belts, etc., should be put into appropriate prisoner locker.
- D. All female prisoners should be searched by a female Officer, dispatcher, or matron, unless there are extenuating circumstances such as possession of dangerous weapon. Said female officer should be present during the entire procedure.
- E. Cells should be searched before placing any prisoner therin, and after a prisoner is released from the cell.
- F. When a prisoner has any visible injuries or complains of injury, it shall be documented on the arrest sheet (see MGL Ch. 276 Sec. 33). Photographs shall be taken where appropriate to document said visible injury. If the prisoner refuses medical attention but in the judgment of the OIC, the prisoner should

EXHIBIT 9

NANTUCKET POLICE DEPT.	ORDER GENERAL	ISSUE DATE 05-01-87	EFFECTIVE DATE 05-01-87	NUMBER 87-40
SUBJECT		REFERENCE	AMENDS	RESCINDS 81-05 79-02
	LOCK UP PROCEDURE CONTINUED			

receive medical attention, the EMTS should be called to respond.

- G. If the prisoner is transported to the hospital to receive further medical attention he/she should be accompanied by a Police Officer. If admitted and is under arrest, the Clerk of Courts should be notified so that the prisoner can be bailed. If the prisoner is not bailed, an Officer shall be assigned to stay with the prisoner at the hospital for the duration of the admittance or until bail is made. In the case of protective custody, the Doctor can assume the responsibility for the incarcerated individual.
- H. Before being released, a computer check (M&W) will be done on any and all persons arrested or incarcerated in this agency.
- I. All photos and prints must be completed before any prisoner is released.



Per The Order Of The Chief

Volume: I  
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\* \* \* \* \*  
POLICE RADIO TRANSMISSIONS \*  
RE: VARALLO \*  
\* \* \* \* \*

## EXHIBIT 10

DUNN & GOUDREAU  
COURT REPORTING SERVICE, INC.  
One State Street, Suite 1150  
Boston, Massachusetts 02109  
Telephone (617) 742-6900

### POLICE RADIO TRANSMISSIONS

RE: VARALLO

#### 911 REAR 1ST CALL

911 DISPATCHER: 911, state your emergency.

MOTHER: Yes, I do, I need an ambulance or someone to come to my daughter, she just cut her wrist -

911 DISPATCHER: Okay.

MOTHER: - at 16 -

911 DISPATCHER: Fire department? It's a different call.

MOTHER: 16 Galen Ave.

911 DISPATCHER: All right. Where are you calling from?

MOTHER: 16 Galen Ave.

911 DISPATCHER: 16 Galen Ave.

MOTHER: Um-hum.

911 DISPATCHER: And - yup. Your daughter cut her wrist?

MOTHER: Um-hum.

911 DISPATCHER: Okay. How bad is it? Is it bleeding bad?

MOTHER: Umm -

911 DISPATCHER: Do you have pressure put on

DUNN & GOUDREAU COURT REPORTING SERVICE, INC.

1 it, or -

2 MOTHER: Hold on one second.

3 911 DISPATCHER: - you're not even around her?

4 MOTHER: My husband's with her, I was -

5 911 DISPATCHER: Okay.

6 MOTHER: I came out to call.

7 911 DISPATCHER: All right.

8 MOTHER: Is it bleeding bad?

9 FATHER: Yeah.

10 MOTHER: Yes.

11 DAUGHTER: Not at all -

12 911 DISPATCHER: I don't know, she's trying to  
13 find - how old is your daughter, ma'am?

14 MOTHER: Well, it's -

15 DAUGHTER: Are you kidding (inaudible)?

16 911 DISPATCHER: Hello?

17 MOTHER: She was drinking, and -

18 DAUGHTER: (inaudible)

19 MOTHER: - she cut her wrist.

20 DAUGHTER: No.

21 FATHER: You need to be admitted (inaudible) -

22 DAUGHTER: No, I (inaudible).

23 911 DISPATCHER: You're going to pick and  
24 choose, huh? Hey, ma'am?

1 MOTHER: Yes?

2 911 DISPATCHER: How old is your daughter?

3 MOTHER: Ahh, twenty.

4 911 DISPATCHER: Your daughter's twenty.

5 Okay. Is someone - is it bleeding where - is it still  
6 bleeding through the bandage that you have wrapped  
7 around her?

8 MOTHER: Ah, we don't have a bandage around  
9 it, no. If I put pressure on it, (inaudible) -

10 911 DISPATCHER: All right, put pressure on  
11 it.

12 DAUGHTER: (inaudible) fine.

13 911 DISPATCHER: Where's Galen Ave.?

14 MOTHER: Yes.

15 911 DISPATCHER: What's Galen Ave. off of,  
16 ma'am?

17 MOTHER: Okay, off of East Lincoln.

18 911 DISPATCHER: East Lincoln. Okay, I'm -

19 MOTHER: And if you come straight down East  
20 Lincoln, right in the middle of the block, the house  
21 is named Tucked Away, there's a mailbox on the left  
22 about midway there.

23 911 DISPATCHER: Okay. All right, bye, Liz.

24 MOTHER: On the left.

DUNN & GOUDREAU COURT REPORTING SERVICE, INC.

DUNN & GOUDREAU COURT REPORTING SERVICE, INC.

1           911 DISPATCHER: All right, ma'am, the  
2           ambulance and the police officers are en route, okay?  
3           MOTHER: Okay, thank you.  
4           911 DISPATCHER: All right, bye, now.  
5           MOTHER: Bye-bye.

6           911 REAR CONT 1ST CALL  
7           911 DISPATCHER: Okay.  
8           MOTHER: --at 16--  
9           911 DISPATCHER: Fire department? It's a  
10          different call.  
11          MOTHER: 16 Galen Ave.  
12          911 DISPATCHER: All right. Where are you  
13          calling from?  
14          MOTHER: 16 Galen Ave.  
15          911 DISPATCHER: 16 Galen Ave.  
16          MOTHER: Um-hum.  
17          911 DISPATCHER: And - yup. Your daughter cut  
18          her wrist?  
19          MOTHER: Um-hum.  
20          911 DISPATCHER: Okay. How bad is it? Is it  
21          bleeding bad?  
22          MOTHER: Umm--  
23          911 DISPATCHER: Do you have pressure put on

DUNN & GOUDREAU COURT REPORTING SERVICE, INC.

5           1           it, or --  
6           2           MOTHER: Hold on one second.  
7           3           911 DISPATCHER: - you're not even around her?  
8           4           MOTHER: My husband's with her, I was --  
9           5           911 DISPATCHER: Okay.  
10          6           MOTHER: I came out to call.  
11          7           911 DISPATCHER: All right.  
12          8           MOTHER: Is it bleeding bad?  
13          9           FATHER: Yeah.  
14          10          MOTHER: Yes.  
15          11          DAUGHTER: Not at all --  
16          12          911 DISPATCHER: I don't know, she's trying to  
17          13          find - how old is your daughter, ma'am?  
18          14          MOTHER: Well, it's --  
19          15          DAUGHTER: Are you kidding (inaudible)?  
20          16          911 DISPATCHER: Hello?  
21          17          MOTHER: She was drinking, and --  
22          18          DAUGHTER: (inaudible)  
23          19          MOTHER: --she cut her wrist.  
24          20          DAUGHTER: No.  
21          21          FATHER: You need to be admitted (inaudible) --  
22          22          DAUGHTER: No, I (inaudible).  
23          23          911 DISPATCHER: You're going to pick and  
24          choose, huh? Hey, ma'am?

DUNN & GOUDREAU COURT REPORTING SERVICE, INC.

1           MOTHER: Yes?  
2           911 DISPATCHER: How old is your daughter?  
3           MOTHER: Ahh, twenty.  
4           911 DISPATCHER: Your daughter's twenty.  
5           Okay. Is someone - is it bleeding where - is it still  
6           bleeding through the bandage that you have wrapped  
7           around her?  
8           MOTHER: Ah, we don't have a bandage around  
9           it, no. If I put pressure on it, (inaudible) -  
10          911 DISPATCHER: All right, put pressure on  
11          it.  
12          DAUGHTER: (inaudible) fine.  
13          911 DISPATCHER: Where's Galen Ave.?  
14          MOTHER: Yes.  
15          911 DISPATCHER: What's Galen Ave. off of,  
16          ma'am?  
17          MOTHER: Okay, off of East Lincoln.  
18          911 DISPATCHER: East Lincoln. Okay, I'm --  
19          MOTHER: And if you come straight down East  
20          Lincoln, right in the middle of the block, the house  
21          is named Tucked Away, there's a mailbox on the left  
22          about midway there.  
23          911 DISPATCHER: Okay. All right, bye, Liz.  
24          MOTHER: On the left.

DUNN & GOUDREAU COURT REPORTING SERVICE, INC.

7           1           911 DISPATCHER: All right, ma'am, the  
8           2           ambulance and the police officers are en route, okay?  
9           3           MOTHER: Okay, thank you.  
10          4           911 DISPATCHER: All right, bye, now.  
11          5           MOTHER: Bye-bye.  
12          6           911 DISPATCHER: (inaudible) Galen Ave. or  
13          7           Derrymore? Derrymore is kind of far. 872 to Victor  
14          8           5.  
15          9           OFFICER: (inaudible) Derrymore.  
16          10          911 DISPATCHER: Where's Galen Ave.?  
17          11          OFFICER: Off of East Lincoln, East Lincoln.  
18          12          911 DISPATCHER: Can you respond to 6  
19          13          Derrymore Road for a man that has fallen and needs  
20          14          help getting up? However, he is on oxygen.  
21          15          OFFICER: (inaudible) en route from  
22          16          (inaudible).  
23          17          911 DISPATCHER: 87 - NFD also is en route,  
24          18          Victor 5.  
25          19          OFFICER: Very good.  
26          20          OFFICER: I think I'll --  
27          21          911 DISPATCHER: 872 to the downtown bike  
28          22          officer.  
29          23          OFFICER: (inaudible) in the middle of the  
30          24          police (inaudible).

DUNN & GOUDREAU COURT REPORTING SERVICE, INC.

1 OFFICER: Bike 7.  
 2 911 DISPATCHER: Bike 7, can you head to 16  
 3 Galen Ave., which is off of East Lincoln Ave, for a  
 4 twenty-two-year-old woman that has cut herself and  
 5 needs assistance? NFD has been called.  
 6 OFFICER: Received.  
 7 OFFICER: (inaudible) get in the car and go to  
 8 the hospital. No, let's activate the EMS system.  
 9 OFFICER: She's been drinking, she's been  
 10 drinking (inaudible).  
 11 OFFICER: (inaudible) take your daughter to  
 12 the hospital.  
 13 OFFICER: (inaudible). Probably a good thing  
 14 you weren't on the desk for the last fifteen minutes.  
 15 OFFICER: I know, I've been hearing it.  
 16 OFFICER: (inaudible) stupid fucking thing  
 17 (inaudible).  
 18 OFFICER: I have a meltdown in here, I fucking  
 19 hate it.  
 20 OFFICER: Police department, can I help you?  
 21  
 22 CALL-BACK ADDR  
 23 OFFICER: (inaudible) 04.  
 24 (Phone being dialed, ringing.)

DUNN &amp; GOUDREAU COURT REPORTING SERVICE, INC.

9 1 911 DISPATCHER: You do know it's off of East  
 2 Lincoln, correct? NED?  
 3 MOTHER: Hello?  
 4 911 DISPATCHER: Hi, this is the police  
 5 department.  
 6 MOTHER: Yes, no, the ambulance is on Galen,  
 7 but we're on East Lincoln - we're off of East Lincoln,  
 8 I told them.  
 9 911 DISPATCHER: Okay, I know, you told me.  
 10 MOTHER: Yeah, okay.  
 11 911 DISPATCHER: Did you -  
 12 MOTHER: They're all the way over by Walsh.  
 13 911 DISPATCHER: Walsh?  
 14 MOTHER: By Walsh. That's where Galen comes  
 15 in from. We're not on - over there -  
 16 911 DISPATCHER: No, no, they - he's off of -  
 17 she's off of East Lincoln. NFD, do you realize that  
 18 it's off of East Lincoln? Spell Galen Ave.  
 19 MOTHER: G-A-L-E-N.  
 20 911 DISPATCHER: Yup?  
 21 RESCUE: 872, we're all set with the rescue.  
 22 It's actually on East Lincoln, not Galen.  
 23 MOTHER: Right.  
 24 911 DISPATCHER: Okay. All right? They

DUNN &amp; GOUDREAU COURT REPORTING SERVICE, INC.

1 should be there.  
 2 MOTHER: Okay, thank you.  
 3 911 DISPATCHER: Thank you. Bye, now.  
 4  
 5 CAR 6 FROM NCH  
 6 DISPATCHER: Nantucket Police Department,  
 7 Officer Bartlett speaking.  
 8 OFFICER: Where's Jonny Walsh?  
 9 DISPATCHER: He's here. How may I service  
 10 you?  
 11 OFFICER: How may you service me, yeah, right.  
 12 Is Smitty there?  
 13 DISPATCHER: No, he's on a rescue call.  
 14 OFFICER: What kind of rescue call?  
 15 DISPATCHER: What do you need? What'd you  
 16 have to go to the hospital for?  
 17 OFFICER: Well, this lady tried - this girl  
 18 tried to commit suicide, and I have to call in a  
 19 counselor to - because that's what the parents want.  
 20 But -  
 21 DISPATCHER: Oh, okay. Oh, the parents are  
 22 there with her?  
 23 OFFICER: Yeah.  
 24 DISPATCHER: Oh, okay.

DUNN &amp; GOUDREAU COURT REPORTING SERVICE, INC.

11 1 12 OFFICER: It's a long story. It's actually  
 2 more than that, she wants to take out charges, but  
 3 she's shit-faced.  
 4 DISPATCHER: Who wants to take out charges?  
 5 OFFICER: The daughter.  
 6 DISPATCHER: Against who?  
 7 OFFICER: The mother.  
 8 DISPATCHER: For what?  
 9 OFFICER: For what? For an assault that took  
 10 place a couple of days ago.  
 11 DISPATCHER: Oh.  
 12 OFFICER: I know, it means nothing. I talked  
 13 to both - everyone in the family so far -  
 14 DISPATCHER: Oh, okay.  
 15 OFFICER: - and it's her -  
 16 DISPATCHER: All right.  
 17 OFFICER: - it's just her alcoholism.  
 18 DISPATCHER: Do you want me - you want me to  
 19 call - have Smitty - what do you want me to do? Do  
 20 you want me to have him stop up there and see you?  
 21 OFFICER: Well, it's going to be - yeah, have  
 22 him stop up here.  
 23 DISPATCHER: Okay.  
 24 OFFICER: All right, bye.

DUNN &amp; GOUDREAU COURT REPORTING SERVICE, INC.



1 HOSPITAL: 2:00?  
2 (Pause.)  
3 DISPATCHER: Jill?  
4 HOSPITAL: Yeah?  
5 DISPATCHER: Nobody has called back yet on it.  
6 HOSPITAL: Yeah, I hear you.  
7 DISPATCHER: You know?  
8 HOSPITAL: All right.  
9 DISPATCHER: If you do need us, please do call  
10 us.  
11 HOSPITAL: All right.  
12 DISPATCHER: Okay?  
13 HOSPITAL: Yup.  
14 DISPATCHER: Thanks.  
15 HOSPITAL: Thanks.  
16  
17 NCH DETAIL  
18 (Phone being dialed, ringing.)  
19 HOSPITAL: Emergency room, may I help you?  
20 POLICE: Hi, Susan down at the police  
department. I'm actually trying to reach Jill.  
21 HOSPITAL: Oh, okay.  
22 POLICE: Want to just give her a message that  
we do have somebody that's going to be there at 2:00?  
23  
24 DUNN & GOUDREAU COURT REPORTING SERVICE, INC.

17 1 HOSPITAL: Okay, great, I'll tell her.  
18 2 POLICE: Okay, thanks.  
3 HOSPITAL: Bye-bye.  
4 POLICE: Bye-bye.  
5  
6 NCH REQ  
7 POLICE: Nantucket Police.  
8 HOSPITAL: Hi, it's Elizabeth calling from the  
9 hospital.  
10 POLICE: Hi, Elizabeth from the hospital.  
11 HOSPITAL: How are you doing? Do you guys  
12 have somebody that can do a one-on-one tonight?  
13 POLICE: A one-on-one?  
14 HOSPITAL: Yes.  
15 POLICE: Who is it with?  
16 HOSPITAL: A suicidal patient.  
17 POLICE: A suicidal patient.  
18 HOSPITAL: Yes.  
19 POLICE: Okay. Yeah, we could get somebody up  
20 there.  
21 HOSPITAL: You could?  
22 POLICE: Yup.  
23 HOSPITAL: Oh, okay.  
24 POLICE: Are they going to be there for the  
25 DUNN & GOUDREAU COURT REPORTING SERVICE, INC.

1 whole night?  
2 HOSPITAL: Yes.  
3 POLICE: Okay.  
4 HOSPITAL: When do you think someone could  
5 come?  
6 POLICE: Within the next 8.56 minutes.  
7 HOSPITAL: That would be awesome.  
8 POLICE: Okay, cool.  
9 HOSPITAL: Thanks, bye.  
10 POLICE: All right, bye.  
11  
12 PD ATTMPT 1  
13 POLICE: Nantucket Police.  
14 MICHELLE: Hi, it's Michelle.  
15 POLICE: Hey, Michelle. How long are you down  
16 there for? Until 2:00?  
17 MICHELLE: Yes.  
18 POLICE: We have a psych. patient up at the  
19 hospital, it's a female, that needs to be on a one-on-  
20 one until about 8:00 in the morning. Would you be  
21 interested after 2:00, or . . .  
22 MICHELLE: Umm . . . yeah.  
23 POLICE: Yeah?  
24 MICHELLE: Yeah.  
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19 1 POLICE: If we can't find anybody else?  
2 MICHELLE: If you can't find anybody else, but  
3 if you can, that would be better.  
4 POLICE: Okay, because we have a call into  
5 Loran, somebody's going door-to-door to see if they  
6 want it.  
7 MICHELLE: Okay, but, yeah, that'd probably be  
8 better, because I'm really tired, so I don't know if  
9 I'd be able to make it.  
10 POLICE: Okay.  
11 MICHELLE: But, all right, thanks.  
12 POLICE: Thought I'd ask you anyways.  
13 MICHELLE: Okay.  
14 POLICE: All right.  
15 MICHELLE: Bye.  
16 POLICE: Bye.  
17  
18 PD ATTMPT2  
19 POLICE: Nantucket Police, Suzy speaking, may  
20 I help you?  
21 MICHELLE: Hi, Suzy, it's Michelle again. I'm  
22 definitely not going to be able to do that tonight. I  
23 don't think I'm going to be able to stay up.  
24 POLICE: Okay, I'll let them know.  
25 DUNN & GOUDREAU COURT REPORTING SERVICE, INC.

1 MICHELLE: All right, thank you.

2 POLICE: Bye.

3 MICHELLE: Bye..

4

5 PD ATTEMPT3

6 (Phone being dialed, ringing.)

7 POLICE: Book of apologies.

8 POLICE: Book of apologies, book of apologies.  
9 Because it was stolen, you will get the truth in your  
10 life, you will know who did (inaudible), and, in  
turn -

11 UNIDENTIFIED: Hello?

12 POLICE: Hello? Hello?

13 UNIDENTIFIED: Hey.

14 POLICE: Hey. It's the police department.

15 UNIDENTIFIED: How's it going?

16 POLICE: Good, how you doing? You got a hell  
of a tick going on over there.

17 UNIDENTIFIED: Yeah.

18 POLICE: I can hardly hear you. There is a -  
21 the hospital called for a detail, one-on-one, tonight  
up at the hospital.

22 UNIDENTIFIED: Yeah.

23 POLICE: And it's for a girl, not a guy, and

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21

1 the girl's just, I don't know, she's asleep, so I  
2 don't know if anybody down there wanted it.

3 UNIDENTIFIED: All right, so do you need a  
4 girl?

5 POLICE: No, we need a guy or a girl, one-on-  
one.

6 UNIDENTIFIED: Okay. What time does it start?

7 POLICE: From now until 8:00 or maybe 7:30.

8 UNIDENTIFIED: All right. I'll try and find  
10 people. Most people are sleeping.

9 POLICE: Okay.

11 UNIDENTIFIED: And (inaudible) have to work in  
13 the morning, so . . .

14 POLICE: Okay.

15 UNIDENTIFIED: I'll try and find someone.

16 POLICE: All right. It's detail pay.

17 UNIDENTIFIED: Okay.

18 POLICE: Okay, thank you.

19 UNIDENTIFIED: Bye.

20 POLICE: Bye.

21

22 PD ATTEMPT 4

23 DISPATCHER: 872 to 403.

24 OFFICER: 403.

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22

1 DISPATCHER: Would you be interested in a one-  
2 on-one detail at the hospital for a psych. patient?

3 OFFICER: Negative. I worked a double today.

4 DISPATCHER: Received.

5

6 RADIO DISP1

7 911 DISPATCHER: 72 to Victor 5.

8 OFFICER: Victor 5.

9 911 DISPATCHER: Can you respond to 6  
Derrymore Road for a man that has fallen and needs  
10 help getting up? However, he is on oxygen.

11 OFFICER: (inaudible) en route from  
13 (inaudible).

14 911 DISPATCHER: 87 - NFD also is en route,  
15 Victor 5.

16 OFFICER: Very good.

17 911 DISPATCHER: 872 to the downtown bike  
18 officer.

19 OFFICER: Bike 7.

20 911 DISPATCHER: Bike 7, can you head to 16  
Galen Ave., which is off of East Lincoln Ave., for a  
21 twenty-two-year-old woman that has cut herself and  
needs assistance? NFD has been called.

22 OFFICER: Received.

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23

1

2 RADIO DISP2

3 NFD: (inaudible), do you have a better number  
for Galen, or a call-back? Galen stops at 16 - at  
4 number 12.

5 911 DISPATCHER: I'll tell you what, I'm going  
6 to call the number now.

7 UNIDENTIFIED: (inaudible) 04.

8 911 DISPATCHER: You do know it's off of East  
9 Lincoln, correct? NFD?

10

11 RADIO DISP3

12 911 DISPATCHER: NFD, do you realize that it's  
13 off of East Lincoln?

14 UNIDENTIFIED: 872, we're all set with the  
15 rescue. It's actually on East Lincoln, not Galen.

16

17 RADIO DISP4

18 OFFICER: Bike 7 to 872.

19 DISPATCHER: Go ahead, Bike 7.

20 OFFICER: (inaudible)

21 DISPATCHER: Received.

22

23 RADIO DISP5

24 OFFICER: (inaudible) to 872.

24

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1 DISPATCHER: 72's on, go ahead.  
 2 OFFICER: Yeah, John, we're going to need a  
 3 full-time officer (inaudible) at NCH on the purpose of  
 4 filing a complaint.  
 5 DISPATCHER: Received, sir.

RADIO DISP6

7 OFFICER: Bike 7 to 872.  
 8 DISPATCHER: 872.  
 9 OFFICER: I'll be 05.  
 10 DISPATCHER: Received.

RADIO DISP7

12 OFFICER: 6, 872.  
 13 DISPATCHER: Go ahead, 6.  
 14 OFFICER: I'm going out at NCH.  
 15 DISPATCHER: Received.

RADIO DISP8

18 OFFICER: (inaudible) 05.  
 19 OFFICER: Received.  
 20 DISPATCHER: Victor 1, could you swing by NCH  
 21 and speak to 220?  
 22 OFFICER: (inaudible) 05.

DUNN &amp; GOUDREAU COURT REPORTING SERVICE, INC.

25

1 OFFICER: Received.  
 2 DISPATCHER: Victor 1, could you swing by NCH  
 3 and speak to 220?  
 4 OFFICER: Received.

SAMPSON CALLS PD

6 DISPATCHER: Nantucket Police.  
 7 SAMPSON: Suzy, it's Sampson.  
 8 DISPATCHER: Yes.  
 9 SAMPSON: Is Sergeant Lardner (phonetic)  
 10 there, by any chance?

11 DISPATCHER: Yeah, hold on.  
 12 SERGEANT: Yeah?  
 13 SAMPSON: Sergeant Lardner.  
 14 SERGEANT: What?  
 15 SAMPSON: I just wanted to let you know  
 16 something.

17 SERGEANT: What?  
 18 SAMPSON: All right. I'm over here, umm, I  
 19 haven't - I've been in her room, like, a couple of  
 20 times, and I've been with the nurses.  
 21 SERGEANT: Yup.  
 22 SAMPSON: But - and I haven't been doing  
 23 anything except for watching her and then talking to

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26

1 the nurses, because she was sleeping.  
 2 SERGEANT: Yup.  
 3 SAMPSON: Well, now she's claiming that I  
 4 supposedly lifted up the covers or something, which I  
 5 didn't, because -  
 6 SERGEANT: Sampson, will you relax?  
 7 SAMPSON: What?  
 8 SERGEANT: Okay? Just relax.  
 9 SAMPSON: All right.  
 10 SERGEANT: All right? Don't get all upset  
 11 about anything, all right? She's a - she's a psych.  
 12 patient, what do you expect?  
 13 SAMPSON: Well, I know, but I wanted to let  
 14 you know before anything else happens.  
 15 SERGEANT: (laughing). You're with the  
 16 nurses, just relax, you're covered, all right?  
 17 SAMPSON: All right. And I guess a supervisor  
 18 is going to call back in a couple of minutes, they  
 19 have to call a supervisor.  
 20 SERGEANT: Okay. For what?  
 21 SAMPSON: I don't know, I guess they don't  
 22 know what to do.  
 23 SERGEANT: They don't know what to do with  
 24 her? Aren't they going to ship her?

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1 SAMPSON: I don't know. I mean, I kind of  
 2 want to get out of here, because -  
 3 SERGEANT: Okay. Like I said, I told you  
 4 you'd be there 8:00, so as soon as the day shift -  
 5 SAMPSON: Yeah.  
 6 SERGEANT: - gets in, you'll be relieved, so  
 7 keep your pants on.  
 8 SAMPSON: All right. All right.  
 9 SERGEANT: Okay?  
 10 SAMPSON: So what do I do about this?  
 11 SERGEANT: What do you do about what? Just  
 12 stay there.  
 13 SAMPSON: Okay. But she - apparently she  
 14 doesn't want me in the room.  
 15 SERGEANT: Then don't stay in the room, stand  
 16 outside the room.  
 17 SAMPSON: Yeah, I am, I'm staying in another  
 18 room.  
 19 SERGEANT: Okay.  
 20 SAMPSON: All right.  
 21 SERGEANT: All right?  
 22 SAMPSON: All right, so if anything happens,  
 23 I'll let you know.  
 24 SERGEANT: You let me know there, tough guy.

28

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1 SAMPSON: All right, thanks.  
 2 SERGEANT: Okay.  
 3 SAMPSON: Bye.  
 4 SERGEANT: Bye.  
 5  
 6 SAMPSON CALLS PD2  
 7 DISPATCHER: Nantucket Police.  
 8 SAMPSON: Sergeant Lardner there, please?  
 9 DISPATCHER: Hold on, please.  
 10 SERGEANT: Sergeant Lardner.  
 11 SAMPSON: Sergeant Lardner, it's Sampson.  
 12 SERGEANT: Yup.  
 13 SAMPSON: (inaudible) I guess I have to ~ I  
 14 have to fill out a report or something, or someone has  
 15 to come talk to me.  
 16 SERGEANT: About what?  
 17 SAMPSON: About, I guess, the incident, they  
 18 have to write up a report, so -  
 19 SERGEANT: Well, you're going to have to wait  
 20 for the next shift, because I'm on a double.  
 21 SAMPSON: Yeah, I guess, umm, they said that  
 22 they might - they might have an attendant watch the  
 23 person (inaudible) -  
 24 SERGEANT: Um-hum. Do you need somebody to

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29

1 relieve you, or no?  
 2 SAMPSON: Umm, they're not sure, they're going  
 3 to ask the person, but I told them, you know, that  
 4 they might have a female watch the person.  
 5 SERGEANT: Okay, because we got female  
 6 (inaudible) specials.  
 7 SAMPSON: All right, yeah, so that would  
 8 probably be the best option.  
 9 SERGEANT: Okay.  
 10 SAMPSON: For that.  
 11 SERGEANT: What do you want to do about . . .  
 12 SAMPSON: I guess I have to wait until 8:00,  
 13 until the people - until the supervisor comes or  
 14 something and talks to me.  
 15 SERGEANT: Yup.  
 16 SAMPSON: So . . . but I just wanted to let  
 17 you know I have to do a report, I guess, I don't know.  
 18 SERGEANT: A report on what?  
 19 SAMPSON: The incident.  
 20 SERGEANT: What -  
 21 SAMPSON: They said they have to take it  
 22 seriously.  
 23 SERGEANT: And what's that? That you did  
 24 what?

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1 SAMPSON: I don't know, I guess I -  
 2 SERGEANT: If you were sitting with the nurses  
 3 the whole time, why is there a problem?  
 4 SAMPSON: I don't know, that's what they said.  
 5 SERGEANT: You know what I mean? If there's  
 6 a -  
 7 SAMPSON: Yeah.  
 8 SERGEANT: If you're sitting in the nurses -  
 9 with the nurses the whole time, why is there a  
 10 problem?  
 11 SAMPSON: I don't know, I mean, the door was  
 12 open, I mean, everyone was looking in. You know? I  
 13 mean, the door wasn't closed at all. I mean, there  
 14 were nurses all over the place coming in from the 7:00  
 15 shift.  
 16 SERGEANT: Yeah.  
 17 SAMPSON: So, I mean, I, you know, I was told  
 18 just check up on her, and I was with the nurses the  
 19 majority of the time.  
 20 SERGEANT: Yeah.  
 21 SAMPSON: Talking to them.  
 22 SERGEANT: And so what is she saying?  
 23 SAMPSON: The girl?  
 24 SERGEANT: Yeah.

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1 SAMPSON: I guess the nurse told me that she  
 2 said that I lifted up the covers.  
 3 SERGEANT: Did you?  
 4 SAMPSON: No, I didn't.  
 5 SERGEANT: Okay.  
 6 SAMPSON: I'd never, ever do that.  
 7 SERGEANT (in background): You need to sign  
 8 that complaint (inaudible)?  
 9 MALE: Yeah.  
 10 SERGEANT: Okay. Yeah.  
 11 SAMPSON: So -  
 12 SERGEANT: And why aren't the nurses that were  
 13 there, why aren't they going to - why aren't they  
 14 saying anything, that you were with them the whole  
 15 time?  
 16 SAMPSON: They are, they're backing me up.  
 17 SERGEANT: Yeah.  
 18 SAMPSON: They're backing me up, but I guess  
 19 the supervisor says we have - the report has to be  
 20 written about it, about the - an incident report.  
 21 SERGEANT: All right. Where are you at -  
 22 where are you at the hospital?  
 23 SAMPSON: I'm in - it's like a waiting room.  
 24 SERGEANT: Yup.

32

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1 SAMPSON: Off to the side.  
2 SERGEANT: Where are you, second floor, first  
3 floor, emergency room?  
4 SAMPSON: Second, second floor.  
5 SERGEANT: Second floor?  
6 SAMPSON: Yup.  
7 SERGEANT: All right. Goodbye.  
8 SAMPSON: All right, bye.

9  
10 \* \* \* end of recording \* \* \*

11 C E R T I F I C A T E

12  
13  
14 This is to certify the foregoing is a true and  
15 accurate transcript, to the best of my skill and  
16 ability, of the police radio transmissions regarding  
17 Varallo.

18  
19  
20  
21 Lissa M. Cimmino  
22 Notary Public

23 Date \_\_\_\_\_  
24

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## VARALLO V SAMSON, ET AL

UNITED STATES DISTRICT COURT FOR  
THE DISTRICT OF MASSACHUSETTS

05-11547-RWZ

LAUREN VARALLO,  
Plaintiff,  
v.  
TOWN OF NANTUCKET - POLICE  
DEPARTMENT and JAMES SAMSON,  
Defendant.

Deposition of JAMES A. SAMSON, taken  
on behalf of the Plaintiff, pursuant to Notice  
under the Federal Rules of Civil Procedure,  
before Janice A. Maggioli, RPR, RMR, CRR, and  
Notary Public in and for the Commonwealth of  
Massachusetts, at the offices of Meehan, Boyle,  
Black & Bogdanow, Two Center Plaza, Boston,  
Massachusetts, on January 25, 2007, commencing  
at 10:25 a.m.

MAGGIOLI REPORTING SERVICES, INC.  
48 Watson Street  
Braintree, Massachusetts 02184  
(781) 356-2636

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## EXHIBITS

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## EXHIBIT 11

## 1 APPEARANCES:

2 Merrick, Louison & Costello, LLP  
[By Robert Stewart, Esq.]  
3 67 Batterymarch Street  
4 Boston, Massachusetts 02110  
On behalf of the Town of Nantucket - Police  
Department

5 Meehan, Boyle, Black & Bogdanow  
6 [By Leo V. Boyle, Esq.]  
7 Two Center Plaza  
Boston, Massachusetts 02108  
On behalf of the Plaintiff.

8 Of Counsel  
9 Shocket & Dockser, LLP  
[By Philip Slotnick, Esq.]  
10 P.O. Box 2219  
Natick, Massachusetts 01760  
11 On behalf of James A. Samson.

## 1 STIPULATION

2 It is agreed by and between counsel  
3 for the respective parties that the reading  
4 and signing of the deposition will not be  
5 waived. All objections, except as to the form  
6 of the question, and motions to strike will be  
7 reserved until the time of trial.

8 MR. BOYLE: Stipulations: Shall  
9 we have the transcript signed under the pains  
10 and penalties of perjury?

11 MR. SLOTNICK: Waive Notary?

12 MR. BOYLE: We'll waive the  
13 notarization. Okay. We'll get you a copy of  
14 the transcript and the original signature page,  
15 and then there will be a 30-day period for the  
16 signature; is that acceptable?

17 MR. SLOTNICK: Fine.

18 MR. BOYLE: And if we don't get  
19 it back within the 30 days, the transcript can  
20 be treated in all respects as though signed.

21 MR. SLOTNICK: Agreed.

22 MR. BOYLE: And shall we waive  
23 the reading -- I'm sorry, all objections, except  
24 as to the form of the question, and all motions

VARALLO V SAMSON, ET AL

JAMES A. SAMSON

13

- 1 A. Yes, sir.  
 2 Q. And that if you lied in the course of testimony  
 3 either then to Judge Quinlan or today in this  
 4 proceeding, that would be a felony; you  
 5 understand that?  
 6 A. Yes, sir.  
 7 Q. And, of course, from your training you  
 8 understand that a person with a background in  
 9 criminal justice should tell the truth under  
 10 oath, correct?  
 11 A. Yes, sir.  
 12 Q. And did you do so when you testified to Judge  
 13 Quinlan?  
 14 A. In terms of?  
 15 Q. Well, she asked you a bunch of questions,  
 16 correct?  
 17 A. That's correct.  
 18 Q. After the court officer or the clerk swore you  
 19 in, correct?  
 20 A. Yes, sir.  
 21 Q. And you answered those questions, correct?  
 22 A. Yes, sir.  
 23 Q. And you gave truthful answers; did you not?  
 24 A. Under advice from counsel.

- 1 Q. And then she asked you questions about the night  
 2 that the trial was going to be about, correct?  
 3 A. Yes.  
 4 Q. And you admitted to certain facts; did you not?  
 5 A. I did.  
 6 Q. Now, when you were there under oath under the  
 7 pains and penalties of perjury answering Judge  
 8 Quinlan's questions, did you do so truthfully?  
 9 A. No, I did not.  
 10 Q. So you committed perjury?  
 11 A. Counsel --  
 12 MR. SLOTNICK: Once again, I  
 13 would like the questions fully answered, but I  
 14 don't want what any lawyer who was representing  
 15 Samson said to him. That's not the question  
 16 that's out. I would like it to be out.  
 17 Q. Well, Judge Quinlan asked you, among -- now, she  
 18 asked you, you'll recall, whether or not you  
 19 were at the time of this plea under the  
 20 influence of any drugs, alcohol or medication,  
 21 and you said no, you weren't, correct?  
 22 A. That's correct.  
 23 Q. Did you tell her the truth when you said that?  
 24 A. Yes, I did.

14

- 1 MR. SLOTNICK: Could we have a  
 2 minute, please?  
 3 MR. BOYLE: Sure.  
 4 MR. SLOTNICK: I would like the  
 5 advice of counsel stricken because I don't want  
 6 to get into attorney-client issues here. I want  
 7 to hold the attorney-client line both with  
 8 regard to me and with regard to criminal  
 9 counsel, I'll just say it for the record. We  
 10 can go back.  
 11 Q. Let me rephrase the question, then. You  
 12 remember Judge Quinlan; do you not?  
 13 A. Partially, yes.  
 14 Q. And she asked you a number of questions about  
 15 what happened the night of July 22, 2002,  
 16 correct?  
 17 A. Correct.  
 18 Q. And she first asked you a bunch of questions  
 19 whether or not you were on medications, whether  
 20 you understood what the questions were, correct?  
 21 A. Correct.  
 22 Q. And you answered in the affirmative right down  
 23 the line; did you not?  
 24 A. Yes, I did.

16

- 1 Q. She asked you: "Have you taken any medication  
 2 in the last 24 hours?"  
 3 You said, "No, ma'am."  
 4 Was that the truth?  
 5 A. That's correct.  
 6 Q. She asked you whether you had been told the  
 7 elements of the crime of indecent assault and  
 8 battery of a person over the age of 14, and you  
 9 said yes, you had been told the elements of the  
 10 offense. Was that true?  
 11 A. Yes, it was.  
 12 Q. She asked you if you had been told what the  
 13 maximum penalty was. You said, "Yes, ma'am."  
 14 Was that answer to Judge Quinlan which you gave  
 15 under oath true?  
 16 A. I don't remember what the answer was, if you  
 17 could refresh my memory.  
 18 Q. Well, she -- in the colloquy she asked you:  
 19 "Have you been told what the maximum penalty  
 20 is?"  
 21 You said, "Yes."  
 22 Was that truthful when you gave  
 23 it?  
 24 A. Could you remind me what the maximum penalty is

17

19

1 right now?  
 2 Q. I believe I can. For indecent assault and  
 3 battery, ten years.  
 4 A. That's correct.  
 5 Q. So you gave a truthful answer to her when she  
 6 asked you that, correct?  
 7 A. Yes, sir.  
 8 Q. She then asked the assistant district attorney  
 9 to outline the evidence that would be presented  
 10 against you. You remember that; do you not?  
 11 A. Yes.  
 12 Q. And Ms. Marchard, who was the assistant  
 13 attorney -- assistant district attorney said  
 14 that -- said, quote, "Judge, if this case went  
 15 to trial, the Commonwealth would show that on  
 16 July 22nd, 2002, the Defendant while employed as  
 17 a summer reserve police officer for the  
 18 Nantucket Police Department was assigned to a  
 19 detail at the Nantucket Cottage Hospital. His  
 20 assignment was to watch a patient, Lauren  
 21 Varallo, for the night. According to Miss  
 22 Varallo, the Defendant approached her while she  
 23 was in the bed, lifted her bed covers and  
 24 clothing and touched her genital area without

1 uncomfortable about, you know -- I think if you  
 2 want to go out and think about this. I don't  
 3 think that I should be involved in discussing  
 4 this question or answer with my client. I just  
 5 don't feel comfortable with that, but if you  
 6 want some time to think about it, step outside  
 7 and think about it. I would ask that you give  
 8 him time to think about it.

9 MR. BOYLE: That's why we took  
 10 the break first thing in the morning, so people  
 11 could think about what they were going to say  
 12 under oath today.

13 Q. Did you commit the crime you pleaded to, sir?  
 14 A. No, I did not.  
 15 Q. So you lied to Judge Quinlan under oath?  
 16 A. What I did was I chose a life, that I could have  
 17 a life. I have a life right now. I'm currently  
 18 employed. I work for a great company. I am  
 19 engaged to my fiancee. The path of life that I  
 20 chose was a great path. I don't have any  
 21 holding back.  
 22 Q. Well, let's get back to my question. Judge  
 23 Quinlan in the next question says to you: "Do  
 24 you agree with the facts as stated by the

18

20

1 her permission or consent," end quote.  
 2 Now, that's essentially what Miss  
 3 Marchard told the court that the Commonwealth  
 4 was prepared to prove; is it not?  
 5 A. That's correct.  
 6 Q. And the court then asked you: "You understand,  
 7 Mr. Samson, that by pleading guilty, you admit  
 8 those facts to be true?"  
 9 And you answered: "Yes, ma'am."  
 10 Was that an honest answer?  
 11 A. I plead The Fifth.  
 12 Q. On whose advice do you plead The Fifth?  
 13 A. On my own advice.  
 14 Q. You have already been found guilty on your plea,  
 15 sentenced, and you served your sentence for that  
 16 crime. What are you pleading The Fifth over?  
 17 A. Self-incrimination. That's what pleading The  
 18 Fifth is.  
 19 Q. I respectfully disagree. You've got to answer  
 20 these questions. Did you lie to Judge Quinlan  
 21 under oath, yes or no?  
 22 A. Could I have a minute with Philip Slotnick,  
 23 please?  
 24 MR. SLOTNICK: I feel

1 district attorney?"  
 2 Your answer is: "Yes, ma'am."  
 3 Next question by Judge Quinlan:  
 4 "Are there any you disagree with?"  
 5 Answer: "No, sir. No, ma'am."  
 6 Next question: "Are you pleading  
 7 guilty willingly, freely and voluntarily?"  
 8 Answer: "Yes, ma'am."  
 9 Were those all lies?  
 10 A. I pled guilty so that I could live my life in  
 11 the world, not possibly in a jail cell.  
 12 MR. BOYLE: I'm going to move to  
 13 strike that answer as nonresponsive.  
 14 Q. The question before you now is, when you  
 15 answered those questions to Judge Quinlan, did  
 16 you lie?  
 17 (Pause).  
 18 A. Yes, I did.  
 19 Q. Isn't the fact of the matter, sir, that you  
 20 touched Lauren Varallo inappropriately and  
 21 without her consent on the evening of July 22,  
 22 2002? Isn't that a fact?  
 23 A. No, sir.  
 24 Q. Judge Quinlan goes on to ask you: "Has anyone

VARALLO V SAMSON, ET AL

21

23

1 forced you to plead guilty?"  
 2 And you answered: "No, ma'am."  
 3 Was that true?  
 4 A. Yes, that was true.  
 5 Q. Question: "And have any threats or promises  
 6 been made to get you to plead guilty," asks  
 7 Judge Quinlan?  
 8 And you say: "No, ma'am."  
 9 Was that true?  
 10 A. That was true.  
 11 Q. She then asked you: "Now, have you been  
 12 represented by Mr. Tracy?"  
 13 You answer: "Yes, ma'am."  
 14 Was that true?  
 15 A. Yes, sir.  
 16 Q. She then asked you: "Do you feel he's  
 17 represented you competently and fairly, acted in  
 18 your best interests?"  
 19 You say: "Yes, ma'am."  
 20 Was that true?  
 21 A. Yes.  
 22 Q. She then asks you: "Are you confused in any way  
 23 by the plea or by any of the consequences of the  
 24 plea?"

1 occasions?  
 2 A. What would you do, sir?  
 3 Q. I'm just asking you.  
 4 A. I understand. If your life was backed up  
 5 against a wall, what would you do? Would you  
 6 face life in prison or would you say, okay, I  
 7 have a life with my fiancee. I'm going to get  
 8 engaged. I love my fiancee. I would like to  
 9 rent an apartment. I would like to have a job.  
 10 What would you do?  
 11 I think in all fairness, that's  
 12 what everyone would do, and in studying criminal  
 13 justice for the amount of years that I have,  
 14 there are many, many people who, unfortunately,  
 15 in life do this.  
 16 It's not what I wanted. How do  
 17 you think I felt going before the judge and  
 18 doing that? Yes, it hurt, but, fortunately, I  
 19 have a life here. I am sitting before you and  
 20 not in a jail cell. So for me personally, yes,  
 21 I looked out for my best interest.  
 22 MR. BOYLE: I'm going to move to  
 23 strike the answer as nonresponsive, and I'm  
 24 going to try to get back to my question.

22

24

1 You answered: "No, ma'am."  
 2 Was that true?  
 3 A. Yes.  
 4 Q. So on that occasion you lied under oath to  
 5 further your best interests in what you have  
 6 described as having a life that you have?  
 7 A. Yes, sir.  
 8 Q. So you are willing -- you are willing to lie  
 9 under oath to protect your own best interests in  
 10 fairness to you, correct?  
 11 A. I did not tell the truth because the odds were  
 12 against me, unfortunately.  
 13 Q. And you would agree, would you not, that if we  
 14 can't trust your oath before the court, before a  
 15 justice of the superior court, we can't trust  
 16 your oath here today, can we?  
 17 A. You have the oath in the report from many  
 18 people.  
 19 Q. Well, the person I'm interested in right now is  
 20 you.  
 21 A. Uh-huh.  
 22 Q. You're under oath today. Would you agree with  
 23 me that you're willing to lie under oath to  
 24 protect your own self-interests on the right

1 Q. Isn't it a fact that under oath you would lie to  
 2 protect your own self-interest; is that true?  
 3 A. I would never have to do that ever again.  
 4 Q. Well, you are under oath today, aren't you?  
 5 A. That's correct.  
 6 Q. You are being sued for money damages, correct?  
 7 A. Which I have none, correct.  
 8 MR. BOYLE: I'm going to move to  
 9 strike that as unresponsive.  
 10 Q. You are being sued for money damages, correct?  
 11 A. That's correct.  
 12 Q. And it's in your own self-interest to lie to me  
 13 here today, isn't it?  
 14 A. I do not lie to you, sir.  
 15 Q. You lied to Judge Quinlan, didn't you? Didn't  
 16 you?  
 17 A. I could have. Yes, I did.  
 18 Q. Now, let's -- first of all, have you ever  
 19 reported to -- well, you were on probation for  
 20 this crime; were you not?  
 21 A. Yes, sir.  
 22 Q. And how long were you on probation?  
 23 A. Three years, one year supervised.  
 24 Q. And what did your probation consist of?

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25

27

- 1 A. Monthly fees every month for \$65, a victim  
2 witness fee for \$75.  
3 Q. Per month?  
4 A. No, just one, \$75. I provided a DNA sample for  
5 the Massachusetts State Police, along with a fee  
6 of \$110, and attended sex offender counseling,  
7 and registered as a sex offender with the Sex  
8 Offender Registry Board.  
9 Q. And does that registration expire at any point?  
10 A. Currently after ten years you can appeal the  
11 Registry for being registered.  
12 Q. Now, when you applied for the two jobs that you  
13 have referenced that you've had since getting  
14 your degrees, did you reveal the criminal --  
15 your criminal record?  
16 A. When I worked for Walgreen's, it was not the --  
17 it was not part of it. It did not come against  
18 a background check.  
19 Q. Well, when you applied for Walgreen's, did they  
20 ask you whether or not you had a criminal  
21 record?  
22 A. Yes, they did.  
23 Q. At the time did you?  
24 A. No, I did not.

- 1 A. I was on foot patrol working from 7 p.m. until 3  
2 a.m., and there was a radio call asking the  
3 dispatcher -- the dispatcher asked four  
4 different summer specials if they would like a  
5 detail, two of them were female, two of them  
6 were male. All of them declined. I volunteered  
7 in dispatch and was assigned the detail.  
8 Q. Which dispatcher called for specials?  
9 A. I'm not sure at the time.  
10 Q. Who were the four -- how do you happen to  
11 remember there were two female and two male?  
12 Were they looking for a female specifically?  
13 A. No, they were looking for anybody in general.  
14 Q. And which two females and which two males  
15 declined?  
16 A. I don't remember at the time.  
17 Q. Can you name any of them?  
18 A. I don't remember. It was so long ago.  
19 Q. How did you hear about it? By radio?  
20 A. Yes, sir.  
21 Q. And you carried a handheld radio on your patrol  
22 that evening?  
23 A. Yes, sir.  
24 Q. Did you carry a weapon?

26

28

- 1 Q. Because the case was still proceeding?  
2 A. That's correct.  
3 Q. At the time you applied for the Dollar Tree  
4 Stores --  
5 A. Yes, sir.  
6 Q. -- did they ask you if you had a criminal  
7 record?  
8 A. No, sir.  
9 Q. No question at all in the application process  
10 whether or not you had a criminal record?  
11 A. No, sir.  
12 Q. Do they know you have a criminal record?  
13 A. No, sir.  
14 Q. Do you know if they did a background check on  
15 you?  
16 A. No, they did not.  
17 Q. Now, do you plan to try to get into criminal  
18 justice work at any time in the future?  
19 A. No, sir.  
20 Q. You are going to stay in corporate work?  
21 A. Yes, sir.  
22 Q. July 22nd of 2002, how did it come to your  
23 attention that the hospital was looking for  
24 someone to guard Lauren Varallo?

- 1 A. No, sir.  
2 Q. Did you carry mace?  
3 A. Yes, sir.  
4 Q. Did you carry any other weapon of any kind,  
5 besides the mace?  
6 A. A duty baton.  
7 Q. How do you know that there were two females and  
8 two males who were asked to do this assignment?  
9 A. I just remember there was two females and two  
10 males.  
11 Q. Did the dispatcher tell you that?  
12 A. It went over the radio.  
13 Q. What went over the radio?  
14 A. The dispatcher asked two females over the radio.  
15 They are called by number, and they all  
16 declined.  
17 Q. Could you hear their voices declining? Are you  
18 on the same radio wavelength?  
19 A. Yes, sir.  
20 Q. But you don't know who they were?  
21 A. No, sir.  
22 Q. You were on from 7 p.m. to 3 a.m.?  
23 A. That's correct.  
24 Q. But you cut that shift short, did you, to go to

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	29		31
1	this assignment?	1	to hurt himself that day, and that was -- it
2	A. Yes, sir.	2	occurred the previous year in 2001.
3	Q. And what did you understand your responsibility	3	Q. And that individual you held in protective
4	was that night?	4	custody at the hospital in his bed, just as you
5	A. To watch a female patient who had tried to	5	did Lauren Varallo the night of July 22, 2002?
6	commit suicide.	6	A. That's correct.
7	Q. And who told you that?	7	Q. And there are certain formalities to a
8	A. The nurses when I went to the hospital, and the	8	protective custody; are there not?
9	dispatcher had informed me partially.	9	A. Yes, sir.
10	Q. So was this a so-called protective custody?	10	Q. And one of the basic principles of a protective
11	A. Yes, sir.	11	custody is that the freedom of the person in
12	Q. And you understand what a protective custody is?	12	custody is, in fact, restrained, correct?
13	A. Yes, sir.	13	A. That's correct.
14	Q. Is protective custody something that you studied	14	Q. And Lauren Varallo was in that situation the
15	at Anna Maria?	15	night of July the 22nd, 2002, correct? Her
16	A. Yes, sir.	16	freedom was restrained?
17	Q. And it's laid out by a statute, correct?	17	A. Yes.
18	A. That's correct.	18	Q. And part of your job was to make sure that she
19	Q. And had you read and studied that statute?	19	didn't get up and leave, correct?
20	A. Yes.	20	A. Yes.
21	Q. So when you were asked to handle this	21	Q. And to make sure she didn't do anything further
22	assignment, you had familiarity with that	22	to hurt herself, correct?
23	particular assignment, that is to say,	23	A. That's correct.
24	protective custody?	24	Q. And you understood that she was a suicide risk,
	30		32
1	A. Yes, sir.	1	correct?
2	Q. And had you done -- and are they called PCs, as	2	A. Correct.
3	well?	3	Q. And protective custody by its very term means
4	A. Short abbreviation, yes.	4	that you were there to protect her, correct?
5	Q. And had you done PCs with other individuals for	5	A. Correct.
6	the Nantucket Police Department?	6	Q. From any further harm to herself, correct?
7	A. Yes, I did.	7	A. Correct.
8	Q. Had you ever done other PCs outside the police	8	Q. Whether self-inflicted or otherwise, correct?
9	station?	9	A. Correct.
10	A. Yes.	10	Q. You were her custodian, so to speak, correct?
11	Q. Whereabouts?	11	A. Correct.
12	A. At the Nantucket Cottage Hospital.	12	Q. And did the hospital have any policies or
13	Q. How many PCs had you -- how many other PCs,	13	procedures for these protective custodies that
14	besides Lauren Varallo, had you done at the	14	were done at the hospital?
15	Nantucket Cottage Hospital before this?	15	A. Could you go into detail about that?
16	A. One.	16	Q. Sure. Were there policies or procedures which
17	Q. And can you describe for me the circumstances of	17	the hospital set down for protective custodies
18	that?	18	at the hospital?
19	A. The patient?	19	A. In regards to what exactly?
20	Q. Yes, and the assignment.	20	Q. Well, what you're supposed to do.
21	A. The patient was a male. He was older,	21	A. The nurse advises me of the situation when the
22	approximately late 40's, early 50's. He was	22	officer arrives on scene. The officer asks, is
23	well-known by the police department, someone who	23	there anything that the officer needs to know
24	was violent, and I know the incident. He tried	24	about? And the main duty, which was understood

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- 1 from the police department, was to watch the  
 2 patient until further notice or until someone  
 3 relieves the officer.
- 4 Q. And you understood that you, as opposed to  
 5 somebody on the nursing staff, was principally  
 6 responsible for watching her that night, Lauren  
 7 Varallo, that is?
- 8 A. The nurses had come in every five or ten minutes  
 9 to check in with her, but I was there as a  
 10 guardian to make sure that she did not hurt  
 11 herself further or hurt others.
- 12 Q. But other than those intermittent times when the  
 13 nurses came in, the person principally  
 14 responsible for watching Lauren Varallo was  
 15 yourself, correct?
- 16 A. It was a share between me and the nurses.
- 17 Q. But most of the time the nurses weren't there,  
 18 correct?
- 19 A. Oh, the nurses were there.
- 20 Q. I understand they were in the hospital, but the  
 21 nurses didn't physically have their eyes on  
 22 Lauren Varallo all the time, did they?
- 23 A. Every five minutes they did, yes.
- 24 Q. That wasn't my question, was it?

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- 1 Q. But you knew you did, didn't you?
- 2 A. No, I didn't.
- 3 Q. You think you could come and go as the evening  
 4 went by?
- 5 A. The nurse advised me that she was under  
 6 medications, and that she would be sleeping, and  
 7 there was no specific direction that I had to  
 8 stay with the patient 100 percent of the time.
- 9 Q. Isn't it a fact that when you have someone in  
 10 protective custody, they have to be watched 100  
 11 percent of the time? Isn't that police  
 12 protocol?
- 13 A. I mean, I never got the training for that,  
 14 though. I don't know.
- 15 Q. So your answer is you don't know?
- 16 A. If you have someone in handcuffs, yes, you are  
 17 to watch them 100 percent. If they are not  
 18 handcuffed, which Ms. Varallo wasn't, there was  
 19 no specific directive that I needed to stay with  
 20 her 100 percent.
- 21 Q. Well, didn't you understand that your assignment  
 22 was to make sure she didn't harm herself or  
 23 others?
- 24 A. Yes, that's correct.

35

- 1 A. If it wasn't, could you repeat it?
- 2 Q. Sure. Your job was to watch Lauren Varallo 100  
 3 percent of the time, correct?
- 4 A. That's correct.
- 5 Q. And there was no nurse watching Lauren Varallo  
 6 100 percent of the time, was there?
- 7 A. There was no nurse physically in the room 100  
 8 percent all the time, that is correct.
- 9 Q. So my statement is correct, okay. Now, you  
 10 understand in a suicide risk you obviously  
 11 simply can't leave the patient, correct?
- 12 A. That's correct, but I did.
- 13 Q. We'll get to what actually happened that night,  
 14 but I want to first see if you understand what  
 15 the protocol is.
- 16 A. Okay.
- 17 Q. The protocol is that if you are on a suicide  
 18 watch, that patient can never be left unwatched;  
 19 isn't that the protocol?
- 20 A. I'm not sure. I never got training in that.
- 21 Q. Well, you certainly understood that the patient  
 22 could never be left alone, correct?
- 23 A. It was never told to me that I had to stay with  
 24 the patient 100 percent.

34

- 1 Q. Wasn't it your assumption that you were supposed  
 2 to be in there all the time?
- 3 A. There was no directive. Like I said, there was  
 4 no directive. I did not assume anything.
- 5 Q. What did you think your job was?
- 6 A. My job was to watch her for the night.
- 7 Q. When you felt like it?
- 8 A. No, my job was to watch her. I asked -- well,  
 9 you want to go into it later, but I want to go  
 10 into it now.
- 11 Q. Well, I just -- I want to see -- before we get  
 12 to how you did your job, I want to just  
 13 understand your view of what your job was that  
 14 night, and the question may be answered, but  
 15 I'll ask it this last time: Did you realize  
 16 that if you're conducting a suicide watch, that  
 17 someone has to be watching the patient 100  
 18 percent of the time?
- 19 A. I was not aware of that. The police department  
 20 did not specifically tell me that I had to be  
 21 there 100 percent of the time.
- 22 Q. You knew this was a protective custody?
- 23 A. Yes, I did. She was not in handcuffs.
- 24 Q. What happened that night? Tell me your memory

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37

1 of what happened that night, please.  
 2 A. I heard over the radio they were looking for a  
 3 police officer to watch a female patient who had  
 4 previously committed suicide (sic). After four  
 5 officers declined, I went to dispatch and asked  
 6 if I could do it, the reason being is because  
 7 I -- my family, my father and my brother, and I,  
 8 was meeting my girlfriend, now fiancee, at the  
 9 time over in Hyannis the next day.

10 So, initially I was taking the  
 11 detail to have some extra money. I have -- I  
 12 did one detail before at the hospital, and I  
 13 performed many other details over the course of  
 14 the two summers.

15 I arrived at the hospital via my  
 16 friend's car. He had dropped me off at the  
 17 hospital because I left my car back at the  
 18 barracks, at the Coast Guard barracks, and I  
 19 arrived at the hospital, spoke with the nurses.

20 The first nurse I had remembered  
 21 from the previous year. We talked for a little  
 22 bit. She asked me how my summer was going. We  
 23 recognized one another from the previous year.  
 24 She asked me a couple of questions, Do I like

1 coming back? Was it a good year? So on and so  
 2 forth.

3 I asked her about the patient.  
 4 She told me she was -- she tried to commit  
 5 suicide. She was currently under heavy  
 6 medications, and she was about ready to go to  
 7 sleep.

8 So I went into the ICU room. The  
 9 room was a glass room. It was the second room.  
 10 There was the first room. Then there was the  
 11 second room. There was a hallway where the  
 12 nurses could look in directly (Indicating). My  
 13 chair was directly inside the room to the right,  
 14 right next to the door.

15 There were two nurses in the room  
 16 at the time when I first arrived. She was awake  
 17 at the time. Her eyes were extremely glassy.  
 18 She could not talk, slurred speech. She wanted  
 19 to talk with me for a little bit, say how are  
 20 you doing? You must be in a bad situation  
 21 coming over here and watching me, you know, the  
 22 person who tried to kill herself, and I didn't  
 23 really say much, and she was watching TV. The  
 24 nurse brought her some water, and the nurse made

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1 sure she was okay, and then they both had walked  
 2 out.

3 At the time the nurses would come  
 4 in every five minutes. I was sitting in the  
 5 chair comfortably. We talked about -- she asked  
 6 me about the television station MTV, asked me  
 7 about a TV program that was on, and she said  
 8 that if I wanted to change the channel, I could  
 9 later on, and then throughout the course of the  
 10 night I had gotten up twice, left the room, go  
 11 to the bathroom, was gone for approximately 10  
 12 or 15 minutes.

13 Q. Each time?

14 A. That's correct. I got up a couple other times  
 15 to get some food throughout the course, and at  
 16 one point I had fallen asleep for half an hour  
 17 in the chair. The nurse had come in and woken  
 18 me up. Approximately between 6:30 and 7 I had  
 19 gotten up, gotten some coffee. I was gone for  
 20 about 10, 15 minutes.

21 I had come back. I took the  
 22 coffee -- the old coffee cups and emptied them  
 23 out into the water bubbler that was in the  
 24 hallway area right next to the room, and I

1 had -- was getting -- I was emptying them out,  
 2 and Lauren had come out, and that's when she  
 3 told the nurses her side of the story.

4 Q. Now, did you review any documents to refresh  
 5 your memory of the events that night before you  
 6 came in here today?

7 A. No, I did not.

8 Q. Have you read your report at any time?

9 A. Which report is that?

10 Q. The one that you made of this event after the  
 11 event.

12 A. Before today?

13 Q. Right.

14 A. No, I did not.

15 Q. When is the last time you read that report?  
 16 Back when you wrote it?

17 A. It was the summer that it happened. Yes, that's  
 18 correct.

19 Q. So, if I understand it, there were two occasions  
 20 of 10 or 15 minutes each that you went out to  
 21 the bathroom; is that correct?

22 A. Give or take, yes.

23 Q. There were a couple of other times you went out  
 24 to get food, correct?

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- 1 A. That's correct.  
 2 Q. And I assume that those times would be longer  
   3 than the bathroom; is that fair to say?  
 4 A. Yes, that's correct.  
 5 Q. So, on the order of 20 or 30 minutes each?  
 6 A. I can't remember. I brought a sandwich with me.  
   7 I believe I brought a sandwich with me then and  
   8 some other food, but I'm not positive.  
 9 Q. So when you say you went out to get food, what  
 10 does that mean?  
 11 A. The food was with me. I had to heat it up in  
   12 the microwave.  
 13 Q. And you did that on two separate occasions. You  
 14 went out to eat?  
 15 A. Yes, sir.  
 16 Q. And something in excess of 10 or 15 minutes for  
   17 each time?  
 18 A. Yes. Like I said, give or take. It --  
 19 Q. Would 20 minutes each time be a fair estimate?  
 20 A. Sure.  
 21 Q. Then at one point you were found asleep in the  
   22 chair; is that right?  
 23 A. Yes, sir.  
 24 Q. And approximately when was that in the course of

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- 1 the evening?  
 2 A. Right now, I don't remember. I don't remember  
   3 the exact time.  
 4 Q. Was it the middle of the night? Was it dawn?  
   5 Can you peg it down at all?  
 6 A. I can't. I really don't remember.  
 7 Q. Do you know how long you were asleep when the  
   8 nurse woke you up?  
 9 A. Approximately about half an hour or so.  
 10 Q. And at 6:30 or 7 you went out to get some  
   11 coffee, and, again, on that occasion you were  
   12 gone for 10 or 15 minutes, correct?  
 13 A. That's correct.  
 14 Q. And, as I understand it, in order to go from  
   15 where Lauren Varallo's room was to get the  
   16 coffee you have to walk right by the nurses'  
   17 station; is that correct?  
 18 A. Yes, that's correct.  
 19 Q. And you would, of course, exchange greetings of  
   20 some kind with them as you passed, correct?  
 21 A. Yes, sir.  
 22 Q. And at 6:30 or 7 o'clock that morning, you would  
   23 have done the same, correct?  
 24 A. Yes, sir.

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- 1 utensils, a break room, more or less.  
 2 Q. And so when you -- on all of these occasions,  
 3 the two times to the bathroom, the two times to  
 4 get food, getting coffee at 6:30, 7 in the  
 5 morning, all of those trips brought you right by  
 6 the nurses' station; is that correct?  
 7 A. That's correct.  
 8 Q. And there was always a nurse there, correct?  
 9 A. Correct.  
 10 Q. And they could see when you went to do these  
   11 various tasks, and they could see when you  
   12 returned from the tasks, correct?  
 13 A. Correct.  
 14 Q. And if you were coming from the lunch or coffee  
   15 room to the nurses' station, you would be coming  
   16 from -- as the nurses sit at the nurses'  
   17 station, you would be coming from the nurses'  
   18 station; am I correct about that?  
 19 A. The coffee room was on the right-hand side.  
 20 When you come off the elevator, you have to pass  
   21 the nurses' station to go into where Lauren  
   22 Varallo's room was.  
 23 Q. I'm going to take a minute and ask you if you  
   24 wouldn't mind drawing a diagram of the corridor.

1 and showing the nurses' station, Lauren's room,  
 2 and then the coffee/microwave room where you  
 3 took these various trips, and if you remember  
 4 it, where the men's room is, as well.

5 A. Okay. I'll do that to the best my knowledge.

6 Q. Sure.

7 (Pause).

8 Q. And would you underneath please put your  
 9 signature and today's date, January 25?

10 MR. SLOTNICK: I just want to

11 look at it. Sign it.

12 A. (Witness complies).

13 Q. And could you walk me through what we have on  
 14 the diagram so we all understand it?

15 A. This is the bathroom here (Indicating).

16 Q. On the far left of the exhibit.

17 MR. BOYLE: And let's put an

18 Exhibit 1 sticker on that, please.

19 (Exhibit 1, Handwritten Diagram,  
 20 marked for identification.)

21 MR. BOYLE: This is Samson

22 Exhibit 1.

23 Q. So on the left end of Samson Exhibit 1, that's  
 24 the men's room that you used that night,

1 A. The box that's marked "Lauren V."

2 Q. Lauren V, okay. And was there -- there was a  
 3 second ICU room between Lauren's room and the  
 4 nurses' station, correct?

5 A. Correct.

6 Q. Was there a patient in that room that night?

7 A. No.

8 Q. And the nurses' station, is it on the same side  
 9 of the main corridor as the entrance to the  
 10 hallway that you have marked?

11 A. Yes.

12 Q. So if I'm understanding your diagram correctly,  
 13 for you to go to any of the locations that you  
 14 went to that night, that being the coffee room  
 15 and the bathroom, you had to walk right around  
 16 the nurses' station, correct?

17 A. That's correct.

18 Q. And does the nurse at the nurses' station face  
 19 the corridor or does he or she face into the  
 20 ICU?

21 A. Initially they face the corridor.

22 Q. The main corridor?

23 A. Yes, that's correct.

24 Q. So if -- would the nurse -- I'll clarify later

1 correct?

2 A. Correct.

3 Q. And the two lines that look like a road would be

4 the corridor, correct?

5 A. Yes, that's correct.

6 Q. And the coffee room is located between what

7 you've marked as the nurses' station and the

8 men's bathroom; is that correct?

9 A. That's correct.

10 Q. And can you describe for me what is behind the

11 nurses' station, please?

12 A. The nurses' station is the ICU, the Intensive

13 Care Unit. There is a long -- there is a

14 hallway here (Indicating) where there are blood

15 pressure kits, monitors for other patients.

16 Q. Okay.

17 A. There was a monitor that was around here for

18 another patient that was across the hall

19 (Indicating).

20 Q. And would you write in small letters in that

21 hallway, would you write the word "hallway" so

22 we know that that's a hallway?

23 A. Okay. (Witness complies).

24 Q. And which one is Lauren Varallo's room?

1 on the record. Would the nurse be sitting here  
 2 looking out in this direction (Indicating)?

3 A. There were -- I don't know the exact, but there  
 4 are four or five nurses that were on duty at the  
 5 time. One of them could be sitting, two of them  
 6 could be standing positioned at either angle.  
 7 They could be positioned looking into the  
 8 hallway at different times or they could be  
 9 positioned depending on what they were doing at  
 10 the time.

11 Q. Where is the chair or the chairs for the nurses'  
 12 station? Are they on the hallway side of the  
 13 nurses' desk or are they on the opposite main  
 14 corridor side?

15 A. They are on this side right here (indicating).

16 Q. Would you put an X in a circle so that we will  
 17 know where the chair at the nurses' station is?

18 A. I know there was three or four chairs. Do you  
 19 want me to do three or four?

20 Q. Yes, that's fine.

21 A. I'll do them all in a row, I guess.  
 22 (Indicating).

23 Q. So it was pretty close quarters when you had to  
 24 leave to go to the bathroom? You passed in very

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1 close proximity to them?  
 2 A. Yes, sir.  
 3 Q. They had to know you left?  
 4 A. Yes, sir.  
 5 Q. Same with coming back, they had to know you came  
 6 back?  
 7 A. Yes, sir.  
 8 Q. Now, you left again, according to your testimony  
 9 here today, between 6:30 and 7 to get some  
 10 coffee from what you've marked on Exhibit 1 as  
 11 the coffee room, correct?  
 12 A. Yes.  
 13 Q. And, again, the nurses had to know you left,  
 14 correct?  
 15 A. Correct.  
 16 Q. And that was while you were out getting coffee  
 17 that Ms. Varallo -- that you say Ms. Varallo  
 18 went with her complaint to the nurses' station,  
 19 correct?  
 20 A. I was coming back from the coffee machine. I  
 21 went into the room, put the new cups of coffee  
 22 on the table that was in front of me, took the  
 23 old cups, brought them to the water fountain,  
 24 and as I was bringing them to the water

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1 fountain, Lauren had come out of the bed with  
 2 her -- the IV and walking with it out to the  
 3 nurses' station.  
 4 Q. So your testimony is that you went and got the  
 5 coffee. You came back, went into Lauren's room;  
 6 is that right?  
 7 A. That's correct.  
 8 Q. And how many cups of coffee did you come back  
 9 with?  
 10 A. I believe two.  
 11 Q. Were they both for you?  
 12 A. Yes.  
 13 Q. You put them on a table inside the room?  
 14 A. Yes. There was a table right next to me on the  
 15 right-hand side, and I had stood up to take the  
 16 old cups out.  
 17 Q. And where is the water fountain that you say you  
 18 emptied the old cups into?  
 19 A. In the hallway right -- in the same hallway  
 20 right next to the room that was unoccupied.  
 21 Q. And by "the hallway" we're not talking about the  
 22 main corridor, but we're talking about -- I'm  
 23 sorry, you've actually marked "water fountain"  
 24 on the map.

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1 And you dumped those cups into  
 2 the water fountain, correct?  
 3 A. As I was dumping them out, she was coming out of  
 4 the room.  
 5 Q. And how much time had gone by between when you  
 6 passed the nurses' station and went back into  
 7 Lauren's room with the new coffee until the time  
 8 that she came out to make her complaint? About  
 9 how much time went by?  
 10 A. Two to three minutes. As I exited the coffee  
 11 room to her room; is that the question?  
 12 Q. No. My question was, from the time that you  
 13 passed the nurses' station with the fresh coffee  
 14 and walked into Lauren's room, in that time  
 15 until the time Lauren walked out with her  
 16 complaint to the nurses' station, how much time  
 17 went by?  
 18 A. Probably 30 seconds when I passed the nurses'  
 19 station, grabbed the cups right away, walked  
 20 right out and was starting to empty them out,  
 21 probably about 40 seconds.  
 22 Q. And what did Lauren do at this time? Tell me,  
 23 please, your memory of what Lauren did at that  
 24 time.

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1 A. I said -- I asked her, as she was exiting going  
 2 to the nurses' station, I said, "Are you okay?"  
 3 I followed behind her to make sure that she  
 4 didn't have anything in her hands or anything  
 5 like that to hurt herself, and then I backed  
 6 away when she was talking with the nurses.  
 7 Q. Did you hear what she said?  
 8 A. No, I did not.  
 9 Q. You knew she was upset?  
 10 A. I didn't know at the time.  
 11 Q. When she walked out of her room and you said to  
 12 her, "Is everything okay," what was her  
 13 response?  
 14 A. She didn't say anything. She might have  
 15 mumbled, "I need to see the nurse."  
 16 Q. Now, when you were guarding her that night,  
 17 during the time that you were in the hallway or  
 18 in her room, where physically did you position  
 19 yourself to guard her, in the hallway or in her  
 20 room?  
 21 A. There was a chair right as you entered the room  
 22 to the right-hand side.  
 23 Q. And is that where you positioned yourself to  
 24 guard her?

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1 A. Yes.  
 2 Q. So you were physically inside her room?  
 3 A. Directly to the right of the door inside.  
 4 Q. The wall on which the door is mounted, is it a  
 5 glass wall or is it a solid wall?  
 6 A. Can you repeat the question?  
 7 Q. Sure. Can you see into her room from the  
 8 hallway?  
 9 A. Yes.  
 10 Q. Is it a glass wall?  
 11 A. Yes, glass wall.  
 12 Q. Was there a chair in the hallway?  
 13 A. No, there wasn't.  
 14 Q. Was there room for a chair in the hallway?  
 15 A. I suppose you could put a chair outside.  
 16 Q. So you -- for the whole time that you were  
 17 watching her when you weren't at the bathroom or  
 18 getting food or getting coffee, you were  
 19 physically in her room; is that right?  
 20 A. That's correct.  
 21 Q. And how close to her bed?  
 22 A. I'm not good with estimating.  
 23 Q. Six feet, the height of a --  
 24 A. If I'm sitting here, her bed is where the wall

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1 is starting there (Indicating).  
 2 Q. Would eight feet be something taller than --  
 3 A. Yeah, that's a possibility. I don't know the  
 4 exact, unfortunately.  
 5 Q. So when Lauren went out to the desk, did you  
 6 follow her out to the desk -- nurses' station, I  
 7 should say?  
 8 A. I was behind her, and she and another nurse went  
 9 off to the other side and went to I believe an  
 10 empty room, but I'm not positive.  
 11 Q. So, if I understand you correctly, going back to  
 12 an earlier answer that you gave, the time period  
 13 between you passing the nurses' station with the  
 14 fresh coffee, going down the short hallway and  
 15 into Lauren's room, picking up the old coffee,  
 16 and dumping it out in the water fountain, and  
 17 Lauren coming out of her room with her IV pole  
 18 headed for the nurses' station, that was only  
 19 about 30 or 40 seconds?  
 20 A. Yes.  
 21 Q. So whoever -- and when you came back with the  
 22 fresh coffee, there were nurses at the nurses'  
 23 station, of course?  
 24 A. Yes.

1 Q. About how many were there?  
 2 A. I don't know off the top of my head. It might  
 3 have been three or four.  
 4 Q. And you would have been gone something on the  
 5 order of I think you told us earlier 10 or 15  
 6 minutes, correct?  
 7 A. That's correct.  
 8 Q. So the nurses that morning had to see you leave,  
 9 be gone for 10 or 15 minutes, correct?  
 10 A. Yes.  
 11 Q. They had -- and, in fact, they did see you,  
 12 according to your testimony, come back into the  
 13 hallway, correct?  
 14 A. Yes.  
 15 Q. And 30 or 40 seconds later Lauren Varallo comes  
 16 out with her complaint that you had done  
 17 something to her, correct?  
 18 A. My back was turned as I was emptying the old  
 19 coffee into the water fountain, and that's when  
 20 she had -- when she had come out, my back was  
 21 turned.  
 22 Q. But all of these nurses at the nurses' station  
 23 would have known if your story is correct, that  
 24 you had only been in her room for 30 or 40

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1 seconds since you returned from 10 or 15 minutes  
 2 in the coffee room?  
 3 A. That's correct. There was a shift change, so I  
 4 believe there was more than four nurses.  
 5 Q. Well witnessed?  
 6 A. Yes.  
 7 Q. And they had to know that you had been out of  
 8 the room for the 10 or 15 minutes before her  
 9 complaint is made with the exception of the 30  
 10 or 40 seconds immediately before she comes to  
 11 the desk, correct?  
 12 A. That's correct.  
 13 Q. Now, in your study of Anna Maria College, did  
 14 you study how to make police reports?  
 15 A. No, we did not.  
 16 Q. Do you know the importance of a police report?  
 17 A. Yes, I do.  
 18 Q. And the facts have to be precisely accurate,  
 19 correct?  
 20 A. That's correct.  
 21 Q. And details matter a lot, correct?  
 22 A. That's correct.  
 23 Q. And as part of your job at the Nantucket Police  
 24 Department, you had made out a number of police

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- 1 reports; had you not?  
 2 A. Yes, that's correct.  
 3 Q. Dozens and dozens of reports over the two  
 4 summers, if you count up the two summers?  
 5 A. The only time that we made out a police report  
 6 is when we arrested an individual or placed them  
 7 in protective custody.  
 8 Q. Okay.  
 9 A. So, give or take, probably in my entire two  
 10 summers, four total maybe.  
 11 Q. You understand that -- now, I'd like you to take  
 12 a look. Your counsel was good enough to produce  
 13 a number of documents, and they include the  
 14 Nantucket Police Department Incident Report of  
 15 July 22, 2002, at 8:30 a.m. by James Samson, and  
 16 I wonder if you would be so kind as to read your  
 17 initial report, which goes from the bottom of  
 18 page 1 over to the top of page 2?  
 19 MR. BOYLE: And we'll mark this  
 20 as exhibit it, please.  
 21 (Exhibit 2, Incident Report,  
 22 marked for identification.)  
 23 A. If I may, may I please use the rest room?  
 24 Q. Sure, of course.

- 1 Q. Now, that part of the report that continues over  
 2 to the first half of page 2 you personally wrote  
 3 yourself, correct?  
 4 A. Yes.  
 5 Q. And do you do that by sitting down at a computer  
 6 terminal at headquarters?  
 7 A. We sit down at a computer station that's in the  
 8 station.  
 9 Q. So you physically typed in that report at 8:30  
 10 a.m. on the morning of July 22nd, correct?  
 11 A. Correct.  
 12 Q. And in that report at page 1 I would like to  
 13 read to you a couple of sentences at the bottom  
 14 of the page -- first of all, you made this  
 15 report under the pains and penalties of perjury;  
 16 did you not?  
 17 A. Yes, I did.  
 18 Q. And in the last two sentences it says, quote,  
 19 "At approximately 0700 hours, Ms. Varallo came  
 20 out of her room and asked to speak with one of  
 21 the nurses. At that time I was out of the room  
 22 getting a cup of coffee," end quote. First of  
 23 all, did I read that correctly?  
 24 A. That's correct.

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- 1 (Short break was taken.)  
 2 Q. I'm going to ask you to read --  
 3 MR. SLOTNICK: You didn't read  
 4 the report before you left?  
 5 MR. BOYLE: No, he didn't.  
 6 Q. I'm going to include all three pages as Exhibit  
 7 2, and if you would just read those three pages,  
 8 which comprise Exhibit 2, to yourself, please,  
 9 and when you're done, I'm going to be asking you  
 10 whether the information that is attributed to  
 11 you is accurate?  
 12 A. (Witness complies).  
 13 (Pause).  
 14 Q. Have you had a chance to read Exhibit 2?  
 15 A. Where does it end?  
 16 Q. It's a three-page exhibit.  
 17 A. Okay, yes, I did.  
 18 Q. And do you see anything that's attributed to  
 19 you, which you say is wrong?  
 20 A. No, everything is correct.  
 21 Q. On the first page of Exhibit 2, there's a part  
 22 at the bottom that says "Initial Report as of  
 23 July 22, '02, at 0830 by James Samson," correct?  
 24 A. That's correct.

- 1 Q. That's different from what you've told me today,  
 2 isn't it?  
 3 A. That is the truth what I said to you, and that  
 4 is the truth (Indicating).  
 5 Q. Well, in this report what I just read to you is  
 6 a different story from what you've said here  
 7 today, correct?  
 8 A. That's not correct. That's incorrect.  
 9 Q. Well, when Ms. Varallo came out of her room to  
 10 speak with one of the nurses, in your report you  
 11 said, quote, "I was out of the room getting a  
 12 cup of coffee," end quote.  
 13 A. Yes, I was out of the room in the hallway.  
 14 Q. But you weren't getting a cup of coffee, were  
 15 you?  
 16 A. Yes, I was. I was getting a cup of coffee, and  
 17 I came back into the room with the old cups,  
 18 went to the water fountain, emptied them out.  
 19 That's the exact same thing. The general gist  
 20 of getting a cup of coffee is the generalization  
 21 of getting a cup of coffee. That's what it  
 22 means.  
 23 Q. Is there any reference in this report to you  
 24 having returned to her room, picking up old cups

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	61	of coffee, and bringing them to the water fountain? Is there any reference?	63	at 8:30 in the morning, you said, quote, "At that time I was out of the room getting a cup of coffee," end quote; did you not?
1	A.	No, there is not.	4	A. Yes, I did.
2	Q.	It simply says flat out, quote, "At that time" -- being when Ms. Varallo came out of her room and asked to speak with one of the nurses, quote, "At that time I was out of the room getting a cup of coffee," end quote.	5	Q. And that, as you look at it, refers -- the reference "at that time" means when Ms. Varallo came out of her room and went to the nurses' station, correct?
3	A.	Yes.	9	A. Yes.
4	Q.	Now, that's different from what you told me today, isn't it?	10	Q. So, in your report, you said, "When she came out to go to the nurses' station," quote, "I was out of the room getting a cup of coffee," end quote; is that right?
5	A.	I wrote down exactly the generalization of what had happened. I asked the sergeant on at the time, Sergeant Christine Ladner, how I should phrase it. She explained to me to write that.	14	A. Yes. It's different than what I had said today, yes.
6	Q.	Oh, okay. So --	16	Q. So today's story is different, correct, in all honesty? Isn't today's story different?
7	A.	I'm being honest with you.	18	A. It is to an extent.
8	Q.	Well, first of all, do you understand that what you wrote in this report is literally -- is from a literal standpoint different from what you've testified to here today; do you understand that?	19	Q. Okay.
9	A.	If I wrote minute per minute -- exactly what I did minute per minute in a report at that time, the report would have been at least 15 pages	20	A. The wording is different. The generalization isn't. I'll leave it at that.
10	Q.		22	Q. But you wrote this report, Exhibit 2, literally an hour and a half after Ms. Varallo made her complaint to the nurse, correct?
11			24	
12			62	
13			1	A. That's correct.
14			2	Q. And when you wrote it down, you made the claim that you were out getting a cup of coffee, correct?
15			3	A. Yes, that's correct. To the best of my ability when I wrote that down, yes.
16			4	Q. Now, certainly -- well, and today you are saying you weren't out getting a cup of coffee. You had finished getting the cup of coffee, and you were emptying out some old cups of coffee, correct?
17			5	A. That's correct, yes, sir.
18			6	Q. And you understand that's different; do you not?
19			7	A. From what I wrote, that's correct.
20			8	Q. You went on at page 3 of this report, and page 3 is Christine Ladner's summary of the events, and Christine Ladner said the following: Quote,
21			9	"He," meaning Mr. Samson, "stated that when she woke up, she requested to see the nurse.
22			10	Officer Samson was out of the room at that time getting a cup of coffee," period, end quote.
23			11	Now, you said that to Christine
24	Q.	(Short break was taken.)	12	Ladner; did you not?
		MR. SLOTNICK: Thank you.	13	A. Yes.
		MR. BOYLE: Great.	14	
		MR. SLOTNICK: I guess we're back at when you wrote your report	15	

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1 Q. So when she -- she came to the hospital, and she  
 2 was trying to figure out what happened, correct?  
 3 A. Correct.  
 4 Q. And she asked you what happened, correct?  
 5 A. Correct.  
 6 Q. And you told her, as you wrote in your own  
 7 report, as well, you told her that when Lauren  
 8 Varallo woke up and requested to see the nurse,  
 9 you were, quote, "out of the room at the time  
 10 getting a cup of coffee," end quote; is that  
 11 right?  
 12 A. That may have happened, yes.  
 13 Q. Well, that's what you told her on the very  
 14 morning of these events, correct?  
 15 A. That's correct.  
 16 Q. And it's different from what you've said today,  
 17 correct?  
 18 A. That may have happened. That's correct. I  
 19 don't --  
 20 Q. Well, now, did you ever tell anyone about the  
 21 fact that you had gotten a cup of coffee, went  
 22 back into the room, you put the fresh coffee on  
 23 the table, you took the old coffee, you walked  
 24 out to the hallway and were disposing of your

1 A. I just did what I was told. That was my job as  
 2 a summer special police officer.  
 3 Q. And you were told to write something down which  
 4 was different from what actually happened?  
 5 A. I was told as a police officer by the Nantucket  
 6 Police Department to write to the best of my  
 7 knowledge what happened. That's what police  
 8 reporting is, what I was told.  
 9 Q. Have you ever heard the term "a one-on-one  
 10 assignment?" Is that a term that you would use  
 11 in connection with a protective custody? Have  
 12 you ever heard that term?  
 13 A. I may have heard it in conversation.  
 14 Q. How did it come about that you left the  
 15 Nantucket Police Department? Were you fired or  
 16 did you resign?  
 17 A. I resigned.  
 18 Q. And did you personally type up the resignation  
 19 letter, do you recall?  
 20 A. Yes, I did.  
 21 Q. Now, prior to working at the Nantucket Police  
 22 Department you had to apply for the job,  
 23 correct?  
 24 A. Yes, sir.

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1 coffee? Before today, did you ever tell anybody  
 2 that story?  
 3 A. Yes, I did.  
 4 Q. Who did you tell that story to? Christine  
 5 Ladner?  
 6 A. I told Christine Ladner exactly what happened,  
 7 and she advised me to write in the report a  
 8 generalization of what happened. She told me to  
 9 write that sentence.  
 10 Q. But did Christine Ladner write that sentence for  
 11 you?  
 12 A. She didn't write the sentences for me. She told  
 13 me to generalize the report as to what happened,  
 14 so I generalized.  
 15 Q. So did she tell you to claim you were out of the  
 16 room getting coffee when Ms. Varallo came to the  
 17 desk?  
 18 A. She did not claim me to do anything. She told  
 19 me to generalize what happened.  
 20 Q. As opposed to write specifics?  
 21 A. That's what she told me to do. I didn't go into  
 22 any detail with her on what she had said.  
 23 Q. As you sit here today, do you see the  
 24 inconsistency?

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1 Q. And there's an employment application that you  
 2 filled out, correct?  
 3 A. Yes, sir.  
 4 Q. Under "Medical Data" it says in the application,  
 5 it asks or reads as follows, paragraph 4 of page  
 6 2 out of ten pages: "List any mental illnesses,  
 7 including outpatient care by a psychiatrist or  
 8 psychologist," and the date of application is  
 9 May of '01. Had you ever been treated by a  
 10 psychiatrist or psychologist for any reason at  
 11 any time in your life before you applied to the  
 12 Nantucket Police Department?  
 13 A. I know I was in for math help, math tutoring,  
 14 but that was tutoring -- can you repeat the  
 15 question?  
 16 Q. Sure. Before you applied to the police  
 17 department in Nantucket, had you ever been seen  
 18 for any reason by any psychiatrist or  
 19 psychologist of any kind?  
 20 A. No.  
 21 Q. Did you have any run-in of any kind with the law  
 22 before you started work at the Nantucket Police  
 23 Department?  
 24 A. With the exception of speeding tickets, you

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1 know, moving violations, no.  
 2 Q. First of all, had you ever been arrested at any  
 3 time?  
 4 A. No.  
 5 Q. Had you ever had a matter continued without a  
 6 finding?  
 7 A. No.  
 8 Q. Had you had any encounter whatsoever with the  
 9 police, even if it didn't result in an arrest,  
 10 which pertained to your conduct, apart from  
 11 automobile violations, which we'll talk about?  
 12 A. No.  
 13 Q. Did you have some automobile violations?  
 14 A. Yes, I did.  
 15 Q. And about how many have you had?  
 16 A. Prior to the incident?  
 17 Q. Yes, prior to the incident.  
 18 A. One.  
 19 Q. And what was that?  
 20 A. It was speeding?  
 21 Q. And did you plead guilty or how was it resolved?  
 22 A. I appealed the speeding ticket, and I went  
 23 before a clerk magistrate, and I believe he  
 24 reduced the fine to -- he reduced the fine. I'm

1 either August the 2nd or August the 7th, I'm not  
 2 sure which, of '02, in which a complaint was  
 3 made about you by a Michele Caron, C-A-R-O-N?  
 4 A. Yes.  
 5 Q. Can you tell me about the circumstances of that  
 6 event, please?  
 7 A. That night -- the previous night Michele had  
 8 been drinking. She had come to my room, was  
 9 upset because another officer that she had liked  
 10 did not like her back. She was crying to me,  
 11 was upset. She was sitting on the chair, and I  
 12 was sitting on the bed, and then she said she  
 13 had -- she said, "I'm going to bed." She was  
 14 upset.  
 15 Q. Where was this all taking place, by the way, in  
 16 her room?  
 17 A. It was in my room.  
 18 Q. What happened next?  
 19 A. And I went to bed. She went to bed, and then  
 20 the next thing I know that night I was awoken by  
 21 her, by Michele, and I looked around me, and I  
 22 was in her room. I was unaware of how I had  
 23 gotten there. I was unaware of what I was  
 24 doing, and all I remember is her yelling my name

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1 not sure how much it was.  
 2 Q. What court was that in?  
 3 A. Worcester.  
 4 Q. And what town had issued the speeding ticket?  
 5 What police department?  
 6 A. Paxton Police Department.  
 7 Q. And what was the year of that?  
 8 A. 1999.  
 9 Q. And at the time were you in college?  
 10 A. Yes.  
 11 Q. Had you ever been suspended from school for any  
 12 reason?  
 13 A. No.  
 14 Q. Had you ever been dismissed, censured or fired  
 15 by any employer before these events?  
 16 A. No.  
 17 Q. On your application you put down some  
 18 references, some individuals who you used as  
 19 references. Do you know if they ever got calls  
 20 from the Nantucket Police Department  
 21 investigating your background?  
 22 A. I'm not positive. I don't think it was released  
 23 to me.  
 24 Q. Now, do you recall an event of August -- it's

1 out loud.  
 2 She told me the next day that --  
 3 I went back to my room. I don't remember  
 4 anything. She told me the next day -- she asked  
 5 me what happened. I said, "I really don't  
 6 know," and I said, "I could have possibly been  
 7 sleepwalking." I told her I had a history of  
 8 sleepwalking at home in my family, talking out  
 9 loud at night, talking in loud dreams, things of  
 10 that nature, and the next thing I know there  
 11 were two letters that were given to the -- I  
 12 believe the lieutenant at the time explaining  
 13 the situation. That was that.  
 14 Q. Whose letters were they?  
 15 A. One was Michele Caron. The other was Emily  
 16 Murphy.  
 17 Q. And who is Emily Murphy?  
 18 A. Her roommate.  
 19 Q. Did you ever have a relationship with Emily  
 20 Murphy?  
 21 A. No.  
 22 Q. Just a fellow officer?  
 23 A. Correct.  
 24 Q. And did you see copies of the letters?

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- 1 A. No, I did not.  
 2 Q. What did they say in substance?  
 3 A. They just -- from what I was told, they had just  
 4 described the incident, that I was in their room  
 5 at night.  
 6 Q. Would it be fair to characterize them in the  
 7 nature of complaints about that, the letters?  
 8 A. I don't know. I haven't seen them.  
 9 Q. Was Michele upset that you were in her room like  
 10 that?  
 11 A. I didn't really talk to her. There was limited  
 12 contact between me and her. She could have been  
 13 upset. We were really close friends at the  
 14 time.  
 15 Q. Are you in touch with her at all today?  
 16 A. No.  
 17 Q. Do you know where she is?  
 18 A. No.  
 19 Q. Are you in touch with Emily Murphy at all today?  
 20 A. No.  
 21 Q. Do you know where she is?  
 22 A. No.  
 23 Q. Why were you in the room that night, do you  
 24 know?

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- 1 A. Like I said, I don't know. I don't remember  
 2 anything that happened that night.  
 3 Q. You just blacked out or --  
 4 A. I don't know. The only thing I do remember is I  
 5 had a dream that night of Michele was yelling.  
 6 She was upset, and that's all that I remember.  
 7 Q. And would you sometimes do things in your sleep  
 8 that you didn't remember when you woke up?  
 9 A. In general?  
 10 Q. Yes.  
 11 A. I know my fiancee and my family said I talked in  
 12 my sleep. Physically, the only thing that  
 13 people told me is that I walked, and that's it.  
 14 Q. Have you done that before, sleepwalked before?  
 15 A. Yes.  
 16 Q. So that night in the event involving Miss Caron  
 17 and Ms. Murphy you simply ended up in their  
 18 room, you have no idea how?  
 19 A. I have no idea.  
 20 Q. What did Ms. Caron say to you when she woke you  
 21 up? Was she upset then?  
 22 A. I remember she yelled my name loud, and that was  
 23 the trigger that woke me up, and I believe, if I  
 24 recall, she said, "What are you doing?" And

- 1 that's all she said, to my knowledge, that I  
 2 recall.  
 3 Q. Did you file a letter with the police department  
 4 about this event?  
 5 A. No, I did not.  
 6 Q. Do you know if they were required or asked to  
 7 file that letter by the police department, the  
 8 letters that they did file?  
 9 A. To my knowledge, I don't know.  
 10 Q. You don't have copies of them?  
 11 A. No, I don't.  
 12 Q. Now, on any of the occasions that you left Ms.  
 13 Varallo's room during the night, would one of  
 14 the nurses come and cover for you until you got  
 15 back?  
 16 A. No. She was not handcuffed at any time.  
 17 Q. I didn't ask that. At any time when you would  
 18 leave the hallway or leave her room, actually go  
 19 down the hallway and do any of the tasks that  
 20 you've described, would one of the nurses come  
 21 and sit in her room until you returned?  
 22 A. The first two times, yes, the nurse did sit in  
 23 the room. The other times I would ask the  
 24 nurse, could you please watch her while I run to

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- 1 the bathroom or the time that I was heating my  
 2 food up.  
 3 Q. How about when you went for coffee in the  
 4 morning --  
 5 A. I let the nurse know I was going to get a cup of  
 6 coffee.  
 7 Q. And did you ask the nurse to keep an eye on her  
 8 while you were gone?  
 9 A. Yes, I did.  
 10 Q. Do you remember which nurse that was?  
 11 A. I don't remember.  
 12 Q. Tall, short, blonde?  
 13 A. I don't remember. It was long ago.  
 14 Q. No memory at all?  
 15 A. One of the nurses.  
 16 Q. So you said to them, Please keep an eye on her  
 17 while I'm gone?  
 18 A. While I go get a cup of coffee, that's correct.  
 19 Q. And did that nurse then go into her room to  
 20 watch her while you were gone?  
 21 A. She may have I don't know. I know at the time  
 22 that I had left. I was passing by, and I said  
 23 to her, "I'm going to get a cup of coffee. Can  
 24 you watch her?" She said yes. She may have

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1 gone in when I was going to get the cup of  
 2 coffee. She may not have. I don't know.

3 Q. What did you understand it to mean for her to  
 4 watch Lauren? She obviously couldn't do it from  
 5 the nurses' station because that's why they had  
 6 you come over, I take it.

7 A. She could do it from the nurses' station. She  
 8 could -- the nurses could look into the room.

9 Q. When they looked down the hallway, they couldn't  
 10 see her in the bed, could they?

11 A. Oh, yes.

12 Q. From the nurses' station without getting up?

13 A. It was all glass (Indicating). Both rooms were  
 14 all glass.

15 MR. BOYLE: That's all I have.

16 Thank you for your patience. I don't know if  
 17 brother counsel has any.

18 CROSS-EXAMINATION BY MR. STEWART

19 Q. My name is Rob Stewart. I'm with Merrick,  
 20 Louison & Costello. Just some quick questions  
 21 so I understand.

22 When you testified earlier that a  
 23 person in protective custody is in handcuffs, is  
 24 it your responsibility to watch that person --

1 again. That's all I was told. I wasn't told  
 2 that specifically.

3 MR. STEWART: Thank you. I have  
 4 no further questions.

5 MR. SLOTNICK: No questions.

6 MR. BOYLE: Thanks. Good luck.

7 (Deposition of JAMES A. SAMSON closed.)

78 80  
 1 as a police officer -- is it your responsibility  
 2 as a police officer to watch that person 100  
 3 percent of the time?

4 A. If they are in handcuffs, it all depends on what  
 5 I was told to do. We didn't get much training  
 6 on that. They didn't really specify, whereas  
 7 Nantucket is a town where it's not like Boston.  
 8 Nantucket is a relaxing, easygoing town. The  
 9 crime isn't what it is over here. So our job  
 10 wasn't like a Boston police officer would do  
 11 here.

12 Q. To your knowledge, it's up to the officer's  
 13 discretion?

14 A. I would assume. I don't know, but we weren't  
 15 specifically told.

16 Q. Thank you. Just a follow-up to that. When you  
 17 went to the hospital on the night of July 22,  
 18 2002, were you told that Ms. Varallo was in  
 19 police custody?

20 A. I wasn't told that specifically that, no, I  
 21 wasn't. I wasn't told that she was in police  
 22 custody. The only thing I was told specifically  
 23 was she tried to commit suicide, and she was  
 24 under a watch so that she would not hurt herself

1 I hereby certify that I have read the  
 2 foregoing deposition transcript of my testimony,  
 3 and further certify that said transcript is a  
 4 true and accurate record of said testimony.

5  
 6  
 7  
 8 JAMES A. SAMSON

9  
 10  
 11 Signed under the pains and penalties of  
 12 perjury this \_\_\_\_ day of \_\_\_\_\_, 2007.